

Memorandum

MIAMI-DADE
COUNTY

Date: January 18, 2006

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

IRCA
Agenda Item No. 3(B)

From: George M. Burgess
County Manager

Subject: Approval to Award Contract Nos. Q74a, Q74b and Q74c for Governmental
Representation and Consulting Services in Washington, D.C.

RECOMMENDATION

It is recommended that the Board of County Commissioners (BCC) approve the award of Contract Nos. Q74a, Q74b, and Q74c to Greenberg Traurig, P.A., Alcalde & Fay, and Tew Cardenas LLP, respectively, to provide governmental representation and consulting services in Washington, D.C., waiving the requirements of Sections 2-8.3 and 2-8.4 of the Miami-Dade County Code pertaining to bid protests. It is also recommended that the BCC approve a waiver of the period for BCC reconsideration pursuant to Resolution No. R-377-04 to allow the consultants to immediately begin work for the current Congressional session.

CONTRACT NOS: Q74a, Q74b and Q74c

CONTRACT TITLE: Governmental Representation and Consulting Services in
Washington, D.C.

DESCRIPTION: These contracts are being awarded to provide the County with federal governmental representation and consulting services before the executive and legislative branches of the federal government. Services include a full range of lobbying, governmental consulting and advocacy services. To supplement the services being provided, work orders may be issued for specific projects or federal subject areas/issues. Additionally, the County may require optional services, as needed, from any of the consultants. The optional services include the use of office space in Washington, D.C.; office related supplies and services used by the County (i.e., copies, phones, parking, etc.); travel by the consultant for special projects at the County's request; and food, non-alcoholic beverage and reception provisions directly related to County lobbying efforts. The County will reimburse the consultants for these optional services at an agreed upon price.

PROJECT MANAGER: Jose Rasco, Office of Intergovernmental Affairs

APPROVAL TO ADVERTISE: January 20, 2005

TERM: One year with three, one-year options to renew at the County's sole discretion.

CONTRACT AMOUNTS: Each contract is valued at \$200,000 annually, plus up to \$100,000 per contract annually for work orders. The contracts also include payment for approved optional services at the County's request, on an as-needed basis, in an amount not to exceed \$75,000 annually in the aggregate for all three contracts.

FUNDING SOURCE: General Fund

METHOD OF AWARD: An open, competitive Request for Qualifications (RFQ) process was used to select the three top ranked firms for this award.

VENDORS RECOMMENDED FOR AWARD: Greenberg Traurig, P.A.
Alcalde & Fay
Tew Cardenas LLP (with subcontractor PM Strategies, LLC)

VENDORS NOT RECOMMENDED FOR AWARD: Van Scoyoc Associates, Inc.
Akerman Senterfitt
Foley and Lardner LLP
Barbour Griffith & Roger, LLC
Global USA, Inc.
Dutko Worldwide
MWW Group
Adorno & Yoss
Quinn Gillespie & Associates
Federalist Group, LLC
Marlowe & Company
Holland & Knight LLP (withdrawn at proposer's request)
Sandler, Travis, & Rosenberg, P.A. (submitted a late proposal)

USING/MANAGING AGENCY: Office of Intergovernmental Affairs

CONTRACT MEASURES: There were no contract measures assigned as the Small Business Enterprise program was not established at the time this RFQ was issued.

LIVING WAGE: Not applicable

UAP: The contract includes the 2% User Access Program provision and the UAP discount will be collected.

LOCAL PREFERENCE: Applied in accordance with applicable ordinances, but did not affect the outcome.

ESTIMATED CONTRACT COMMENCEMENT DATE: After adoption by the Board of County Commissioners (BCC), unless vetoed by the Mayor.

BACKGROUND


The County previously contracted with eight consultants to provide federal governmental representation and consulting services in Washington, D.C. The amount of those contracts was \$1,175,000 annually in the aggregate, plus up to \$75,000 in work orders per contract per year. These three new contracts will replace the existing contracts for these services which are currently on a month-to-month basis.

On the day proposals were due, fifteen proposals were received on-time and one proposal was received late (i.e., after the designated time specified in the RFQ document). In accordance with the established policy at the time and as specified in the RFQ document, the County notified the firm which submitted a late proposal, Sandler, Travis & Rosenberg, P.A., that the subject proposal was late and would not be considered. Thereafter, at the County's request, the firm picked up its unopened proposal package from the County in March 2005.

Since the initial determination by the County that the subject proposal would not be considered, the County Attorney's Office has requested that instances of late proposals be referred to that office for legal advice regarding whether or not to accept the proposal. After the Evaluation/Selection Committee reviewed and initially scored the fourteen proposals (note that one proposer withdrew), a letter was received by the County in December 2005 from Sandler, Travis & Rosenberg, P.A. requesting that the County now consider acceptance of its proposal. At that time, the proposal was no longer in the County's possession and the Evaluation/Selection Committee had already short-listed and invited the top-ranked firms for oral presentations.

Once the County issued a recommendation to award to the top three ranked firms, the fifteen firms which participated in the competitive process were notified of the recommendation in accordance with the requirements of Sections 2-8.3 and 2-8.4 of the Miami-Dade County Code pertaining to bid protests. The 10-day protest period would have ended prior to the Intergovernmental, Recreation and Cultural Affairs (IRCA) Committee January 2006 meeting. However, after consultation with the County Attorney's Office regarding the December 2005 request from Sandler, Travis & Rosenberg, P.A. to consider its proposal, it was determined that even though the Evaluation/Selection Committee's evaluation process did not include the proposal from Sandler, Travis & Rosenberg, P.A., that firm should be sent the award recommendation. Consequently, the award recommendation would need to be re-issued to all firms, including Sandler, Travis & Rosenberg, P.A. There is not sufficient time for the protest period or, if a protest was received, to conduct the protest process and still present the item to the IRCA Committee in January 2006. Therefore, as the IRCA Committee in November 2005 requested that this process be expedited, the federal legislative session starts in January 2006, and these services need to be in place by February 2006, it is recommended that the BCC waive the requirements of Sections 2-8.3 and 2-8.4 of the Miami-Dade County Code pertaining to bid protests.

This recommendation that the BCC approve the award of Contract Nos. Q74a, Q74b, and Q74c to Greenberg Traurig, P.A., Alcalde & Fay, and Tew Cardenas LLP, respectively, has not changed from the County's previously issued recommendation, with the exception of the request to waive the bid protest provisions as noted above.



Assistant County Manager



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: February 7, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Agenda Item No.

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

Approved _____ Mayor

Veto _____

Override _____

Agenda Item No.

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENTS WITH GREENBERG TRAURIG, P.A., ALCALDE & FAY, AND TEW CARDENAS LLP, TO OBTAIN GOVERNMENTAL REPRESENTATION AND CONSULTING SERVICES IN WASHINGTON, D.C., WAIVING THE REQUIREMENTS OF SECTIONS 2-8.3 AND 2-8.4 OF THE MIAMI-DADE COUNTY CODE PERTAINING TO BID PROTESTS BY A TWO-THIRD VOTE OF THE BOARD MEMBERS PRESENT, AUTHORIZING THE COUNTY MANAGER TO EXECUTE THE AGREEMENTS FOR AND ON BEHALF OF MIAMI-DADE COUNTY AND TO EXERCISE ANY CANCELLATION AND RENEWAL PROVISIONS, TO EXERCISE ALL OTHER RIGHTS CONTAINED THEREIN, AND AUTHORIZING A WAIVER OF THE PERIOD FOR BCC MOTION FOR RECONSIDERATION CONTRACT NOS. Q74A, Q74B, and Q74C

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the selection of Greenberg Traurig, P.A., Alcalde & Fay, and Tew Cardenas LLP, in substantially the form attached hereto and made a part hereof, and authorizes the County Manager to execute same for and on behalf of Miami-Dade County and to exercise any cancellation and renewal provisions and any other rights contained therein.

Furthermore, the Board waives the procedures contained in Section 2-8.3 and 2-8.4 of the County Code pertaining to bid protests by a two-third (2/3) vote of the Board members present.

The foregoing resolution was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and upon being put to a vote, the vote was as follows:

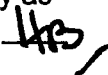
Joe A. Martinez, Chairman	
Dennis C. Moss, Vice-Chairman	
Bruno A. Barreiro	Jose "Pepe" Diaz
Audrey M. Edmonson	Carlos A. Gimenez
Sally A. Heyman	Barbara J. Jordan
Dorrin D. Rolle	Natacha Seijas
Katy Sorenson	Rebeca Sosa
Sen. Javier D. Souto	

The Chairperson thereupon declared the resolution duly passed and adopted this 7th day of February, 2006. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency. 

Hugo Benitez

Governmental Representation and Consulting Services
in Washington, DC

Contract No. Q74a

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Greenberg Traurig, PA, a corporation organized and existing under the laws of the State of Florida, having its principal office at 1221 Brickell Avenue, Miami, FL 33131 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide governmental representation before the executive and legislative branches of the federal government that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. 74 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated March 10, 2005, hereinafter referred to as the "Contractor's Proposal" which is incorporated by reference herein; and,

WHEREAS, the County desires to procure from the Contractor such Governmental Representation and Consulting Services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

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ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 74 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative.
- d) The word "Contractor" or "Consultant" to mean Greenberg Traurig, PA and its permitted successors and assigns.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- h) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the Executive Director of the Office of Intergovernmental Affairs or the duly authorized representative designated to manage the Contract.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- m) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of

this Contract.

- n) The words "Work Order" to mean a document that defines and describes the parameters of individual projects assigned or awarded by the County to the Contractor in accordance to the terms of the Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFQ No. 74 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- b) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- c) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- d) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor

agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

- e) The Consultant shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, which may have a bearing on the services involved in this agreement, including but not limited to, Section 2-11.1, Code of Miami-Dade County, Ordinance 72-82, as amended (Conflict of Interest Ordinance); Resolution No. R-1236-99; Resolution No. R-1060-93; Resolution No. R-232-01; and Section 2-11.1.2, Code of Miami-Dade County, Ordinance No. 00-64.

Pursuant to Resolution No. R-1236-99, no County contract lobbyist and his or her subcontractors shall represent any client and/or issue that may be adverse to the County without **first** requesting permission from the County. Resolution No. R-1236-99 provides that this obligation shall be a continuing one that applies throughout the term of the lobbyist's contract with the County.

Pursuant to Sections 2-11.1 and 2-11.1.2, no person or entity, whether an individual, firm, partnership or corporation, which receives compensation either directly or indirectly from the County for lobbying on behalf of the County or any of its agencies or instrumentalities at either the municipal, state, or national level shall represent any entity in any forum to support a position in opposition to a position of the County unless the Board of County Commissioners grants a specific waiver for a specific lobbying activity. The failure to comply with this provision shall result in either or both of the following: (i) the Consultant's contract being voidable by the County or (ii) a prohibition, for a period of up to three years, as determined by the Board of County Commissioners in its sole discretion, on the Consultant's entering into a lobbying contract with the County.

Concurrent with entering this Agreement, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, shall provide the Director of the Office of Intergovernmental Affairs a copy of the 2005 federal legislative and executive Lobbyist Registration Forms for each and every client the Consultant and his or her employees, partners, and subcontractors represents at the time this Agreement is entered. In the event the Consultant and his or her employees, partners, and subcontractors acquires additional clients after this Agreement is executed, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, shall have an affirmative obligation over the term of this Agreement (including a renewal term if applicable) to provide the Director of the Office of Intergovernmental Affairs a copy of the legislative and executive Lobbyist Registration Forms for such clients prior to undertaking any lobbying activities for such client or within 48 hours of filing the form with the federal government, whichever comes first. This obligation shall apply whether such party or interest is adverse to the County or not. Such notification must include all parties the Consultant or employees, partners, or subcontractors wishes to represent.

Separate and independent from the above-referenced obligation, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, must advise the Director of the Office of Intergovernmental Affairs in writing of any position in opposition to a County position that the Consultant or any employee, partner, or subcontractor desires to take and request a waiver of such conflict before the Board of County Commissioners prior to taking such a position. A position in opposition to a County position may take the form of an adverse policy position or fiscal impact on the County, either direct or indirect. A position in opposition to a County position is not limited to a position that conflicts with an express provision of the legislative package adopted by the Board of County Commissioners. It may also arise in other areas. Not every County interest can be anticipated or enumerated in the County's legislative package, and issues arise and change over the course of the legislative process. It is incumbent on the Consultant and its employees, partners, and subcontractors to remain mindful of the County's policy and fiscal interests and positions vis-à-vis other clients. If an actual or perceived conflict arises, the Consultant and/or subcontractor must advise the Director of the Office of Intergovernmental Affairs immediately in writing and seek a waiver of the conflict before the Board of County Commissioners prior to representing the adverse interest or position.

The Director of the Office of Intergovernmental Affairs reserves the right to question or further question the Consultant regarding any client or any potential and/or perceived conflict.

Once a conflict waiver request has been received by the County, the County Manager or his designee, in consultation with the County Attorney's Office, reserves the right to take, in his sole discretion, any action regarding a waiver request, including but not limited to the following: (i) allow a waiver and allow the Consultant, and/or employee, partner, or subcontractor to continue to represent both the County and the other party; (ii) disallow a waiver and require the Consultant and/or employee, partner, or subcontractor to choose between representing the County or the other party, or to discontinue representing the other party; (iii) allow a limited waiver and require the Consultant and/or employee, partner, or subcontractor to continue to represent both the County and the other party under whatever limitations or restrictions the County Manager or his designee, in consultation with the County Attorney's Office, determines to be appropriate. Any such actions by the County Manager or his designee shall only be effective until the Board of County Commissioners has considered the conflict issue.

The Board of County Commissioners may take, in its sole discretion, any action regarding a waiver request, including but not limited to the following: (i) grant a waiver and allow the Consultant, and/or employee, partner, or subcontractor to continue to represent both the County and the other party; (ii) refuse to grant a waiver and require the Consultant and/or employee, partner, or subcontractor to choose between representing the County or the other party, or to discontinue representing the other party; (iii) refuse to grant a waiver and void its contract with the Consultant, and/or employee, partner, or subcontractor; (iv) grant a

limited waiver and allow the Consultant and/or employee, partner, or subcontractor to continue to represent both the County and the other party under whatever limitations or restrictions the County, in its sole discretion, determines to be appropriate.

Pursuant to Resolution No. R-1236-99, the Consultant and each subcontractor shall prepare reports at least monthly advising the Commission of the current status of all issues that the lobbyist is monitoring or tracking that may affect the County, the actions taken on such issues, and the recommendations for future actions on such issues. The Consultant and each subcontractor shall also raise, discuss and recommend any affirmative legislative action that may benefit the County.

Also, pursuant to Resolution No. R-1236-99, all County contracts and subcontracts for lobbying or representation at the state or federal level and/or individuals and firms hired to represent the County on intergovernmental issues must be approved by the Board of County Commissioners.

Pursuant to Resolution No. R-232-01, County lobbyists are instructed to limit legislative initiatives and funding requests on behalf of the County to those that have been approved by the Board of County Commissioners and/or set forth in the legislative package.

Pnk Contractor has read, understands and agrees to abide by the conflict of interest and other provisions contained in this section 4(e).

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date stipulated on the first page of the Agreement and shall be for a duration of one (1) year. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for three (3) additional years on a year-to-year basis. The County reserves the right to exercise its option to extend a contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the contractor in writing of the extension. This contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period upon mutual agreement between the County and the successful proposer(s), upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County

Office of Intergovernmental Affairs
111 N.W. 1st Street, Suite 1032
Miami, FL 33128
Attention: Executive Director
Phone: (305) 375-5600
Fax: (305) 375-5639

and,
b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Greenberg Traurig, PA
800 Connecticut Avenue NW, Suite 500
Washington, DC 20006
Attention: Dianne Blagman
Phone: (202) 331-3121
Fax: (202) 261-0121

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Consultant warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Consultant deemed necessary in order to determine the price the Consultant will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services (including travel), shall be in a total amount not to exceed two hundred thousand dollars (\$200,000.00) per year. The County shall have no obligation to pay the Consultant any additional sum in excess of the amount set forth in the preceding sentence, except for a change and/or modification to the Contract that is approved and executed in writing by the County and the Consultant. Additionally, the County reserves the right to request through the use of Work Orders that the Consultant provide related services for the purpose of carrying out the intent of this Agreement, for an additional amount as specified in the Work Order based on the scope and nature of the work requested. The aggregate amount paid for work requested pursuant to Work Orders issued to the Consultant by the County shall not exceed one hundred thousand dollars (\$100,000.00) per year. The County shall also reimburse the Consultant for certain optional services, which have been approved by the County, pursuant to Appendix A, Scope of Services. The amount for the optional services shall not exceed seventy-five thousand (\$75,000.00) per year. This not-to-exceed amount for optional services represents the total aggregate amount for all consultants awarded contracts as a result of RFQ No. 74.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

With respect to travel costs and travel related expenses, the Contractor agrees to adhere to CH. 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

ARTICLE 8. PRICING

Prices shall remain firm and fixed for the term of the Contract including, any option years; however, the Contractor may offer incentive discounts to the County at any time during the contractual term and any extensions thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County and shall show the County's contract number. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five days from receipt of a proper invoice. The time at which payment shall be due to small businesses and minority and women business enterprises shall be thirty (30) days from receipt of a proper invoice. All payments due from the County or the Public Health Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County
Office of Intergovernmental Affairs
111 N.W. 1st Street, Suite 1032
Miami, FL 33128
Attention: Executive Director

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall, furnish to Miami-Dade County, Department of Procurement Management, RFP Section, 111 N.W. 1st Street, Suite 1375, Miami, Florida 33128-1974, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of the Department of Procurement Management, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Errors & Omission Liability Insurance in an amount not less than \$250,000 with the deductible per claim, if any, not to exceed ten percent (10%) of the limit of liability.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor. -
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, resolutions, and regulations, as such may be amended from time-to-time, that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

- a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.

- e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope Of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The Contractor agrees that the County or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, and shall only address those transactions related to this Agreement.

The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. The County reserves the right to approve or disapprove such substitution request in its sole discretion.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Provider and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s)

that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

- d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
- i. stop work on the date specified in the notice ("the Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
- e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:
- i. portion of the Services completed in accordance with the Agreement and the Work Order up to the Effective Termination Date; and
 - ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and Work Order and has been specifically developed for the sole purpose of this Agreement Work Order but not incorporated in the Services.
- f) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:
- i. the Contractor has not delivered Deliverables on a timely basis.
 - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;
 - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:
- i. treat such failure as a repudiation of this Agreement;
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE /TERMINATION

If an Event of Default occurs, in the determination of the County, the County may so

notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for procurement of Services, including procurement and administrative costs; and,
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default.

The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.
- b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- c) In the event any Deliverable or anything provided to the County hereunder, or

portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

- d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.
- e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate

fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledge that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the contractors will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all

rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

- b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation

or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. BUSINESS APPLICATION AND FORMS

Business Application The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. It is the responsibility of the Contractor to file the appropriate Vendor Application and to update the Application file for any changes for the duration of this Agreement, including any option years.

Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts,

throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Florida, Department of Business Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
- e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- f) Miami-Dade County Code Section 10-38 "Debarment".
- g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
- h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to: not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment,

termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract with the County, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.

- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Miami-Dade County Budget Ordinance No. 03-192, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of

two percent (2%). All sales resulting from this Contract, or any contract resulting from this solicitation and the utilization of the County contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the contract price and shall accept as payment thereof the contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Vendor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor

Miami-Dade County

By: Ronald W. Kleinman

By: _____

Name: Ronald W. Kleinman

Name: _____

Title: Managing Shareholder

Title: _____

Date: 12/27/05

Date: _____

Attest: [Signature]
Secretary

Attest: _____
Clerk of the Board

Corporate Seal

Approved as to form
and legal sufficiency

Assistant County Attorney

Appendix A

SCOPE OF SERVICES

1. INTRODUCTION

Miami-Dade County, hereinafter referred to as the "County", is contracting for the professional services of experienced and qualified law firms, governmental affairs consulting firms, businesses, individuals, and/or a combination thereof, to provide the County with governmental representation before the executive and legislative branches of the federal government.

A. Qualifications

1. The Consultant should, at a minimum, possess a) a strong working knowledge of legislative, administrative, and regulatory processes at the federal level; b) a clear understanding of Miami-Dade County, the federal programs administered by the County, and a knowledge of the funding needs and policy issues important to the County; c) a history of successful lobbying experience at the federal level; d) a clear strategy for representing the County at meetings with key legislators and members of the Executive Branch; e) the ability to liaison with Members of Congress, the federal agencies, and the White House; f) expertise to provide legal and legislative research upon request; g) resources to attend congressional and administrative hearings, monitor legislative and administrative developments, and report back to County staff; h) experience in identifying and securing various sources of federal funding; i) experience in coordinating communications and meetings with Members of Congress and the Administration; j) experience in working with Senate and House committees; k) resources to help facilitate meetings with and communications between committee leadership and senior staff; and l) the ability to provide timely notice of hearings. The Consultant shall be able to provide written and verbal reports. Additionally, the Consultant may be required to provide office space, phones, parking, computer equipment, supplies, clerical office equipment, and clerical support to County staff while they are assigned to Washington, DC.
2. The Consultant should possess a substantial knowledge of past and existing maritime issues including, but not limited to a) expertise identifying and securing dredging authorizations and/or appropriations; b) working knowledge of existing and/or proposed fees or tariffs on the industry; c) experience identifying grant programs and successful experience secure funding from such grant programs for port security and/or other related port infrastructure improvements; d) knowledge of other ports' activities and legislative actions; and e) involvement with American Association of Port Authority's legislative policies and recommendations. The County will permit this expertise to be provided through subcontractual relationships.
3. The Consultant should possess a strong working knowledge of federal legislative, administrative and regulatory processes and issues related to the aviation industry, including but not limited to a) a working knowledge of the Airport Improvement Program, Passenger Facility Charges, federal aviation security regulations and funding opportunities, and federal environmental and aircraft noise regulations and funding programs; b) a history of successful advocacy on behalf of airports before Congress and the Administration; c) established relationships with key Members of Congress in leadership positions, particularly the Chairman and Ranking Members of committees with oversight over aviation issues, senior staff of such committees, and key Administration officials including, but not limited to, the Office of the President, the Department of Transportation, the Federal Aviation Administration, the Transportation Security Administration, the Department of the Treasury, the U.S. Customs Service, the Department of the Justice, the U.S. Immigration and Naturalization Service, and the future Homeland Security Department; and d) experience in representing airports and/or airlines in bilateral civil aviation consultations and negotiations between the United States and foreign governments and in representing airports in

international air route proceedings. The County will permit this expertise to be provided through sub contractual relationships.

The Consultant shall not represent any other airport that, in the sole judgment of the County, competes with Miami International Airport. Competitor airports shall include, but shall not be limited to, Atlanta Hartsfield International Airport, John F. Kennedy International Airport in New York and Houston Intercontinental Airport. Consultant shall have an affirmative obligation to notify the County Manager and the Office of Intergovernmental Affairs in writing of each and every airport the Consultant and/or its employees, partners, or subcontractors wishes to represent before Congress, the Administration or any federal agency, as well as the nature of the proposed representation.

B. Non-exclusivity/Assignment of Work

It is the County's intention to award multiple contracts for these services. Additionally, the County may issue Work Orders for specific projects or federal subject areas/issues, for the purposes of carrying out the intent of the requirements herein. The County may also require the Consultant to provide optional services, as further defined in Section 3 below. The County reserves the right to request that the Consultant obtain services through subcontractors to supplement the expertise and resources which may be required at any given time and for the purposes of carrying out the intent of the requirements herein.

2. REQUIREMENTS AND SERVICES TO BE PROVIDED

A. Lobbying Ordinances and Resolution Requirements

The Consultant shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, some which may have a bearing on the services involved in this Agreement, including but not limited to, Ordinance No. 72-82 (Conflict of Interest Ordinance), Resolution No. R-1236-99, and Ordinance No. 00-64. (Refer to Article 4, Nature of the Agreement, subsection "e".)

B. Representation and Consulting Services

The Consultant shall provide governmental representation and consulting services requested by the County, for various subjects/issues assigned to the Consultant, including but not limited to those examples listed in Appendix B. The Consultant will receive issue and project assignments based on the County's annual legislative package.

The Consultant shall:

- a) Report and meet with the County on a weekly basis, or on an as needed basis, while the Congress is in session on those issues important to the County and the actions taken on such issues.
- b) Report and meet with the County on a monthly basis when the Congress is not in session.
- c) Prepare monthly reports (weekly during the Legislative session), in a timely manner, advising the County of the current status of all issues that they are monitoring or tracking that may affect Miami-Dade County, the actions taken on such issues, and recommendations for future actions on such issues.
- d) Raise, discuss and recommend any affirmative legislative action that may benefit the County.
- e) Be available, if requested, on a twenty-four hour basis during the session: assisting in writing, interpreting, and monitoring legislation and regulations; drafting legislation, amendments, proviso language, position papers, and testimony; and providing monthly written progress reports detailing services that have been rendered.

- f) Provide a full range of lobbying, legislative counsel and advocacy services including preparing reports and advising the County of the current status of legislation while Congress is in session.
- g) Integrate its efforts with the County's Office of Intergovernmental Affairs to ensure a strong consistent legislative program.
- h) Be prepared to obtain documentation and research materials upon request.
- i) Forward all required reports to the County upon request by the County in the number of copies as requested by the County for that particular instance.
- j) Upon request, arrange for meetings with Members of Congress, including Members of the Miami-Dade County Delegation, as well as Members in leadership positions such as Chairman and Ranking Members of key committees. Arrange meetings with senior staff of Congressional Committees and key officials at both the White House and key Administrative Agencies.

3. OPTIONAL SERVICES

The County may need office space for County staff in the vicinity of the Capitol with ancillary services that include, but are not limited to, parking, phones, facsimile, copy machine, personal computer with appropriate software and hardware (identified by the County), filing space, and clerical assistance, including an administrative assistant and an intern/runner (available for said County staff for the entirety of the session) to ensure adequate coordination between Washington and Miami-Dade County. The County may also request other optional services such as travel for special projects at the County's request, and food, non-alcoholic beverage and reception services directly related to County lobbying efforts. The County has the option of requiring the Consultant to provide these optional services at an agreed upon cost.

Appendix B

Federal Subject Areas/Issues

- a) Federal Appropriations/Earmarks
- b) Unfunded Mandates
- c) Aviation – Federal Inspection Services, Explosive Detection System (EDS) Installation, FAA funding, Transportation Security Administration (TSA), aviation security, passenger screening, cargo and capital improvement issues, international trade
- d) Seaport – Corps of Engineers (dredging projects), Coast Guard, Customs and Boarder Protection, maritime security, cargo and cruise passenger issues, international trade, Water Resource Development Act (WRDA)
- e) Transit – Metro-rail expansion, Federal Transit Administration (FTA) approval process, project authorization, bus and bus related projects
- f) Solid Waste Management
- g) Community Development/Urban Initiatives – Empowerment Zone and Performing Arts Center
- h) Housing/Homeless Programs
- i) Business Development and Retention
- j) Environmental Issues and Environmental Infrastructure Projects – including Everglades Restoration, Beach Erosion Control/Renourishment, and Flood Mitigation
- k) Agricultural Issues – Country of origin labeling, APHIS
- l) Base Realignment and Closure (BRAC) - Homestead Air Reserve Base (interagency planning, training and redevelopment) and U.S. Southern Command (permanent relocation on state land)
- m) Water and Sewer Issues and Projects
- n) Immigration –program funding, federal programs, Administration initiatives, reform
- o) Homeland Security – funding, grants, large urban county issues, Urban Areas Security Initiative (UASI), grants
- p) Criminal and Juvenile Justice – public safety, crime prevention, juvenile justice, gun violence prevention
- q) Healthcare/Medicare/AIDS
- r) Welfare Reform Implementation/Changes
- s) Human/Social Services
- t) Head State/Early Head Start/Education Reform
- u) Planning, Development and Zoning
- v) FEMA, mitigation and preparedness
- w) Telecommunications/E Commerce – regulation and taxation

Appendix B

- x) Consumer Protection – predatory lending, regulation of towing, telecommunications
- y) Finance and Taxation
- z) Election Reform
- aa) Utility Deregulation/Energy Reform
- bb) Mosquito Control, West Nile Virus
- cc) International trade, trade agreements, aviation bi-laterals
- dd) FTAA

Governmental Representation and Consulting Services
in Washington, DC

Contract No. Q74b

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Alcalde & Fay, a corporation organized and existing under the laws of the State of Virginia, having its principal office at 2111 Wilson Boulevard, 8th Floor, Arlington, VA 22201 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide governmental representation before the executive and legislative branches of the federal government that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. 74 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated March 10, 2005, hereinafter referred to as the "Contractor's Proposal" which is incorporated by reference herein; and,

WHEREAS, the County desires to procure from the Contractor such Governmental Representation and Consulting Services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 74 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative.
- d) The word "Contractor" or "Consultant" to mean Alcalde & Fay and its permitted successors and assigns.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- h) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the Executive Director of the Office of Intergovernmental Affairs or the duly authorized representative designated to manage the Contract.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- m) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of

this Contract.

- n) The words "Work Order" to mean a document that defines and describes the parameters of individual projects assigned or awarded by the County to the Contractor in accordance to the terms of the Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFQ No. 74 and any associated addenda and attachments thereof; and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- b) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- c) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- d) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor

agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

- e) The Consultant shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, which may have a bearing on the services involved in this agreement, including but not limited to, Section 2-11.1, Code of Miami-Dade County, Ordinance 72-82, as amended (Conflict of Interest Ordinance); Resolution No. R-1236-99; Resolution No. R-1060-93; Resolution No. R-232-01; and Section 2-11.1.2, Code of Miami-Dade County, Ordinance No. 00-64.

Pursuant to Resolution No. R-1236-99, no County contract lobbyist and his or her subcontractors shall represent any client and/or issue that may be adverse to the County without **first** requesting permission from the County. Resolution No. R-1236-99 provides that this obligation shall be a continuing one that applies throughout the term of the lobbyist's contract with the County.

Pursuant to Sections 2-11.1 and 2-11.1.2, no person or entity, whether an individual, firm, partnership or corporation, which receives compensation either directly or indirectly from the County for lobbying on behalf of the County or any of its agencies or instrumentalities at either the municipal, state, or national level shall represent any entity in any forum to support a position in opposition to a position of the County unless the Board of County Commissioners grants a specific waiver for a specific lobbying activity. The failure to comply with this provision shall result in either or both of the following: (i) the Consultant's contract being voidable by the County or (ii) a prohibition, for a period of up to three years, as determined by the Board of County Commissioners in its sole discretion, on the Consultant's entering into a lobbying contract with the County.

Concurrent with entering this Agreement, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, shall provide the Director of the Office of Intergovernmental Affairs a copy of the 2005 federal legislative and executive Lobbyist Registration Forms for each and every client the Consultant and his or her employees, partners, and subcontractors represents at the time this Agreement is entered. In the event the Consultant and his or her employees, partners, and subcontractors acquires additional clients after this Agreement is executed, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, shall have an affirmative obligation over the term of this Agreement (including a renewal term if applicable) to provide the Director of the Office of Intergovernmental Affairs a copy of the legislative and executive Lobbyist Registration Forms for such clients prior to undertaking any lobbying activities for such client or within 48 hours of filing the form with the federal government, whichever comes first. This obligation shall apply whether such party or interest is adverse to the County or not. Such notification must include all parties the Consultant or employees, partners, or subcontractors wishes to represent.

Separate and independent from the above-referenced obligation, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, must advise the Director of the Office of Intergovernmental Affairs in writing of any position in opposition to a County position that the Consultant or any employee, partner, or subcontractor desires to take and request a waiver of such conflict before the Board of County Commissioners prior to taking such a position. A position in opposition to a County position may take the form of an adverse policy position or fiscal impact on the County, either direct or indirect. A position in opposition to a County position is not limited to a position that conflicts with an express provision of the legislative package adopted by the Board of County Commissioners. It may also arise in other areas. Not every County interest can be anticipated or enumerated in the County's legislative package, and issues arise and change over the course of the legislative process. It is incumbent on the Consultant and its employees, partners, and subcontractors to remain mindful of the County's policy and fiscal interests and positions vis-à-vis other clients. If an actual or perceived conflict arises, the Consultant and/or subcontractor must advise the Director of the Office of Intergovernmental Affairs immediately in writing and seek a waiver of the conflict before the Board of County Commissioners prior to representing the adverse interest or position.

The Director of the Office of Intergovernmental Affairs reserves the right to question or further question the Consultant regarding any client or any potential and/or perceived conflict.

Once a conflict waiver request has been received by the County, the County Manager or his designee, in consultation with the County Attorney's Office, reserves the right to take, in his sole discretion, any action regarding a waiver request, including but not limited to the following: (i) allow a waiver and allow the Consultant, and/or employee, partner, or subcontractor to continue to represent both the County and the other party; (ii) disallow a waiver and require the Consultant and/or employee, partner, or subcontractor to choose between representing the County or the other party, or to discontinue representing the other party; (iii) allow a limited waiver and require the Consultant and/or employee, partner, or subcontractor to continue to represent both the County and the other party under whatever limitations or restrictions the County Manager or his designee, in consultation with the County Attorney's Office, determines to be appropriate. Any such actions by the County Manager or his designee shall only be effective until the Board of County Commissioners has considered the conflict issue.

The Board of County Commissioners may take, in its sole discretion, any action regarding a waiver request, including but not limited to the following: (i) grant a waiver and allow the Consultant, and/or employee, partner, or subcontractor to continue to represent both the County and the other party; (ii) refuse to grant a waiver and require the Consultant and/or employee, partner, or subcontractor to choose between representing the County or the other party, or to discontinue representing the other party; (iii) refuse to grant a waiver and void its contract with the Consultant, and/or employee, partner, or subcontractor; (iv) grant a

limited waiver and allow the Consultant and/or employee, partner, or subcontractor to continue to represent both the County and the other party under whatever limitations or restrictions the County, in its sole discretion, determines to be appropriate.

Pursuant to Resolution No. R-1236-99, the Consultant and each subcontractor shall prepare reports at least monthly advising the Commission of the current status of all issues that the lobbyist is monitoring or tracking that may affect the County, the actions taken on such issues, and the recommendations for future actions on such issues. The Consultant and each subcontractor shall also raise, discuss and recommend any affirmative legislative action that may benefit the County.

Also, pursuant to Resolution No. R-1236-99, all County contracts and subcontracts for lobbying or representation at the state or federal level and/or individuals and firms hired to represent the County on Intergovernmental issues must be approved by the Board of County Commissioners.

Pursuant to Resolution No. R-232-01, County lobbyists are instructed to limit legislative initiatives and funding requests on behalf of the County to those that have been approved by the Board of County Commissioners and/or set forth in the legislative package.



Contractor has read, understands and agrees to abide by the conflict of interest and other provisions contained in this section 4(e).

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date stipulated on the first page of the Agreement and shall be for a duration of one (1) year. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for three (3) additional years on a year-to-year basis. The County reserves the right to exercise its option to extend a contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the contractor in writing of the extension. This contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period upon mutual agreement between the County and the successful proposer(s), upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County

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Office of Intergovernmental Affairs
111 N.W. 1st Street, Suite 1032
Miami, FL 33128
Attention: Executive Director
Phone: (305) 375-5600
Fax: (305) 375-5639

and,

b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Alcalde & Fay
2111 Wilson Boulevard, 8th Floor
Arlington, VA 22201
Attention: Lois Moore
Phone: (703) 841-0626
Fax: (703) 243-2874

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Consultant warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Consultant deemed necessary in order to determine the price the Consultant will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services (including travel), shall be in a total amount not to exceed two hundred thousand dollars (\$200,000.00) per year. The County shall have no obligation to pay the Consultant any additional sum in excess of the amount set forth in the preceding sentence, except for a change and/or modification to the Contract that is approved and executed in writing by the County and the Consultant. Additionally, the County reserves the right to request through the use of Work Orders that the Consultant provide related services for the purpose of carrying out the intent of this Agreement, for an additional amount as specified in the Work Order based on the scope and nature of the work requested. The aggregate amount paid for work requested pursuant to Work Orders issued to the Consultant by the County shall not exceed one hundred thousand dollars (\$100,000.00) per year. The County shall also reimburse the Consultant for certain optional services, which have been approved by the County, pursuant to Appendix A, Scope of Services. The amount for the optional services shall not exceed seventy-five thousand (\$75,000.00) per year. This not-to-exceed amount for optional services represents the total aggregate amount for all consultants awarded contracts as a result of RFQ No. 74.

All Services undertaken by the Contractor before County's approval of this Contract shall be at the Contractor's risk and expense.

^With respect to travel costs and travel related expenses, the Contractor agrees to adhere to CH. 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

ARTICLE 8. PRICING

Prices shall remain firm and fixed for the term of the Contract including, any option years; however, the Contractor may offer incentive discounts to the County at any time during the contractual term and any extensions thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County and shall show the County's contract number. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five days from receipt of a proper invoice. The time at which payment shall be due to small businesses and minority and women business enterprises shall be thirty (30) days from receipt of a proper invoice. All payments due from the County or the Public Health Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County
Office of Intergovernmental Affairs
111 N.W. 1st Street, Suite 1032
Miami, FL 33128
Attention: Executive Director

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall, furnish to Miami-Dade County, Department of Procurement Management, RFP Section, 111 N.W. 1st Street, Suite 1375, Miami, Florida 33128-1974, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of the Department of Procurement Management, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Errors & Omission Liability Insurance in an amount not less than \$250,000 with the deductible per claim, if any, not to exceed ten percent (10%) of the limit of liability.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Services described herein in a competent and professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.
- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, resolutions, and regulations, as such may be amended from time-to-time, that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

- a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.

- e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope Of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The Contractor agrees that the County or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, and shall only address those transactions related to this Agreement.

The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. The County reserves the right to approve or disapprove such substitution request in its sole discretion.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.

- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.
- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Provider and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that

such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

- d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
- i. stop work on the date specified in the notice ("the Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
- e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:
- i. portion of the Services completed in accordance with the Agreement and the Work Order up to the Effective Termination Date; and
 - ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and Work Order and has been specifically developed for the sole purpose of this Agreement Work Order but not incorporated in the Services.
- f) All compensation pursuant to this Article are subject to audit.

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ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:
- i. the Contractor has not delivered Deliverables on a timely basis.
 - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;
 - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:
- i. treat such failure as a repudiation of this Agreement;
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE /TERMINATION

If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and

advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for procurement of Services, including procurement and administrative costs; and,
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default.

The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.
- b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be

enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

- d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.
- e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the

Confidential Information.

- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledge that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the contractors will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies

thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

- b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any

statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. BUSINESS APPLICATION AND FORMS

Business Application The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. It is the responsibility of the Contractor to file the appropriate Vendor Application and to update the Application file for any changes for the duration of this Agreement, including any option years.

Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total

contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSiG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSiG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSiG for inspection and copying. The Inspector General and IPSiG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSiG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes, ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Florida, Department of Business Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
- e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- f) Miami-Dade County Code Section 10-38 "Debarment".
- g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
- h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to: not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract with the County, the Contractor attests that it is not in violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an

actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Miami-Dade County Budget Ordinance No. 03-192, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from

this solicitation and the utilization of the County contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

The Contractor providing goods or services under this Contract shall invoice the contract price and shall accept as payment thereof the contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Vendor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor

Miami-Dade County

By: [Signature]

By: _____

Name: Hector Alcalde

Name: _____

Title: Chairman & CEO

Title: _____

Date: December 23, 2005

Date: _____

Attest: [Signature]

Attest: _____

Secretary

Clerk of the Board

Corporate Seal

Approved as to form
and legal sufficiency

KATHRYN M SLUGER

Assistant County Attorney

Appendix A**SCOPE OF SERVICES****1. INTRODUCTION**

Miami-Dade County, hereinafter referred to as the "County", is contracting for the professional services of experienced and qualified law firms, governmental affairs consulting firms, businesses, individuals, and/or a combination thereof to provide the County with governmental representation before the executive and legislative branches of the federal government.

A. Qualifications

1. The Consultant should, at a minimum, possess a) a strong working knowledge of legislative, administrative, and regulatory processes at the federal level; b) a clear understanding of Miami-Dade County, the federal programs administered by the County, and a knowledge of the funding needs and policy issues important to the County; c) a history of successful lobbying experience at the federal level; d) a clear strategy for representing the County at meetings with key legislators and members of the Executive Branch; e) the ability to liaison with Members of Congress, the federal agencies, and the White House; f) expertise to provide legal and legislative research upon request; g) resources to attend congressional and administrative hearings, monitor legislative and administrative developments, and report back to County staff; h) experience in identifying and securing various sources of federal funding; i) experience in coordinating communications and meetings with Members of Congress and the Administration; j) experience in working with Senate and House committees; k) resources to help facilitate meetings with and communications between committee leadership and senior staff; and l) the ability to provide timely notice of hearings. The Consultant shall be able to provide written and verbal reports. Additionally, the Consultant may be required to provide office space, phones, parking, computer equipment, supplies, clerical office equipment, and clerical support to County staff while they are assigned to Washington, DC.
2. The Consultant should possess a substantial knowledge of past and existing maritime issues including, but not limited to a) expertise identifying and securing dredging authorizations and/or appropriations; b) working knowledge of existing and/or proposed fees or tariffs on the industry; c) experience identifying grant programs and successful experience secure funding from such grant programs for port security and/or other related port infrastructure improvements; d) knowledge of other ports' activities and legislative actions; and e) involvement with American Association of Port Authority's legislative policies and recommendations. The County will permit this expertise to be provided through subcontractual relationships.
3. The Consultant should possess a strong working knowledge of federal legislative, administrative and regulatory processes and issues related to the aviation industry, including but not limited to a) a working knowledge of the Airport Improvement Program, Passenger Facility Charges, federal aviation security regulations and funding opportunities, and federal environmental and aircraft noise regulations and funding programs; b) a history of successful advocacy on behalf of airports before Congress and the Administration; c) established relationships with key Members of Congress in leadership positions, particularly the Chairman and Ranking Members of committees with oversight over aviation issues, senior staff of such committees, and key Administration officials including, but not limited to, the Office of the President, the Department of Transportation, the Federal Aviation Administration, the Transportation Security Administration, the Department of the Treasury, the U.S. Customs Service, the Department of the Justice, the U.S. Immigration and Naturalization Service, and the future Homeland Security Department; and d) experience in representing airports and/or airlines in bilateral civil aviation consultations and negotiations between the United States and foreign governments and in representing airports in

international air route proceedings. The County will permit this expertise to be provided through sub contractual relationships.

The Consultant shall not represent any other airport that, in the sole judgment of the County, competes with Miami International Airport. Competitor airports shall include, but shall not be limited to, Atlanta Hartsfield International Airport, John F. Kennedy International Airport in New York and Houston Intercontinental Airport. Consultant shall have an affirmative obligation to notify the County Manager and the Office of Intergovernmental Affairs in writing of each and every airport the Consultant and/or its employees, partners, or subcontractors wishes to represent before Congress, the Administration or any federal agency, as well as the nature of the proposed representation.

B. Non-exclusivity/Assignment of Work

It is the County's intention to award multiple contracts for these services. Additionally, the County may issue Work Orders for specific projects or federal subject areas/issues, for the purposes of carrying out the intent of the requirements herein. The County may also require the Consultant to provide optional services, as further defined in Section 3 below. The County reserves the right to request that the Consultant obtain services through subcontractors to supplement the expertise and resources which may be required at any given time and for the purposes of carrying out the intent of the requirements herein.

2. REQUIREMENTS AND SERVICES TO BE PROVIDED

A. Lobbying Ordinances and Resolution Requirements

The Consultant shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, some which may have a bearing on the services involved in this Agreement, including but not limited to, Ordinance No. 72-82 (Conflict of Interest Ordinance), Resolution No. R-1236-99, and Ordinance No. 00-64. (Refer to Article 4, Nature of the Agreement, subsection "e".)

B. Representation and Consulting Services

The Consultant shall provide governmental representation and consulting services requested by the County, for various subjects/issues assigned to the Consultant, including but not limited to those examples listed in Appendix B. The Consultant will receive issue and project assignments based on the County's annual legislative package.

The Consultant shall:

- a) Report and meet with the County on a weekly basis, or on an as needed basis, while the Congress is in session on those issues important to the County and the actions taken on such issues.
- b) Report and meet with the County on a monthly basis when the Congress is not in session.
- c) Prepare monthly reports (weekly during the Legislative session), in a timely manner, advising the County of the current status of all issues that they are monitoring or tracking that may affect Miami-Dade County, the actions taken on such issues, and recommendations for future actions on such issues.
- d) Raise, discuss and recommend any affirmative legislative action that may benefit the County.
- e) Be available, if requested, on a twenty-four hour basis during the session: assisting in writing, interpreting, and monitoring legislation and regulations; drafting legislation, amendments, proviso language, position papers, and testimony; and providing monthly written progress reports detailing services that have been rendered.

- f) Provide a full range of lobbying, legislative counsel and advocacy services including preparing reports and advising the County of the current status of legislation while Congress is in session.
- g) Integrate its efforts with the County's Office of Intergovernmental Affairs to ensure a strong consistent legislative program.
- h) Be prepared to obtain documentation and research materials upon request.
- i) Forward all required reports to the County upon request by the County in the number of copies as requested by the County for that particular instance.
- j) Upon request, arrange for meetings with Members of Congress, including Members of the Miami-Dade County Delegation, as well as Members in leadership positions such as Chairman and Ranking Members of key committees. Arrange meetings with senior staff of Congressional Committees and key officials at both the White House and key Administrative Agencies.

3. OPTIONAL SERVICES

The County may need office space for County staff in the vicinity of the Capitol with ancillary services that include, but are not limited to, parking, phones, facsimile, copy machine, personal computer with appropriate software and hardware (identified by the County), filing space, and clerical assistance, including an administrative assistant and an intern/runner (available for said County staff for the entirety of the session) to ensure adequate coordination between Washington and Miami-Dade County. The County may also request other optional services such as travel for special projects at the County's request, and food, non-alcoholic beverage and reception services directly related to County lobbying efforts. The County has the option of requiring the Consultant to provide these optional services at an agreed upon cost.

Appendix B

Federal Subject Areas/Issues

- a) Federal Appropriations/Earmarks
- b) Unfunded Mandates
- c) Aviation – Federal Inspection Services, Explosive Detection System (EDS) Installation, FAA funding, Transportation Security Administration (TSA), aviation security, passenger screening, cargo and capital improvement issues, international trade
- d) Seaport – Corps of Engineers (dredging projects), Coast Guard, Customs and Boarder Protection, maritime security, cargo and cruise passenger issues, international trade, Water Resource Development Act (WRDA)
- e) Transit – Metro-rail expansion, Federal Transit Administration (FTA) approval process, project authorization, bus and bus related projects
- f) Solid Waste Management
- g) Community Development/Urban Initiatives – Empowerment Zone and Performing Arts Center
- h) Housing/Homeless Programs
- i) Business Development and Retention
- j) Environmental Issues and Environmental Infrastructure Projects – including Everglades Restoration, Beach Erosion Control/Renourishment, and Flood Mitigation
- k) Agricultural Issues – Country of origin labeling, APHIS
- l) Base Realignment and Closure (BRAC) - Homestead Air Reserve Base (interagency planning, training and redevelopment) and U.S. Southern Command (permanent relocation on state land)
- m) Water and Sewer Issues and Projects
- n) Immigration –program funding, federal programs, Administration initiatives, reform
- o) Homeland Security – funding, grants, large urban county issues, Urban Areas Security Initiative (UASI), grants
- p) Criminal and Juvenile Justice – public safety, crime prevention, juvenile justice, gun violence prevention
- q) Healthcare/Medicare/AIDS
- r) Welfare Reform Implementation/Changes
- s) Human/Social Services
- t) Head State/Early Head Start/Education Reform
- u) Planning, Development and Zoning
- v) FEMA, mitigation and preparedness
- w) Telecommunications/E Commerce – regulation and taxation

Appendix B

- x) Consumer Protection – predatory lending, regulation of towing, telecommunications
- y) Finance and Taxation
- z) Election Reform
- aa) Utility Deregulation/Energy Reform
- bb) Mosquito Control, West Nile Virus
- cc) International trade, trade agreements, aviation bi-laterals
- dd) FTAA

Governmental Representation and Consulting Services
in Washington, DC

Contract No. Q74c

THIS AGREEMENT made and entered into as of this _____ day of _____ by and between Tew Cardenas LLP, a partnership, having its principal office at 1441 Brickell Avenue, 15th Floor, Miami, FL 33131 (hereinafter referred to as the "Contractor"), and Miami-Dade County, a political subdivision of the State of Florida, having its principal office at 111 N.W. 1st Street, Miami, Florida 33128 (hereinafter referred to as the "County"),

WITNESSETH:

WHEREAS, the Contractor has offered to provide governmental representation before the executive and legislative branches of the federal government that shall conform to the Scope of Services (Appendix A); Miami-Dade County's Request for Qualifications (RFQ) No. 74 and all associated addenda and attachments, incorporated herein by reference; and the requirements of this Agreement; and,

WHEREAS, the Contractor has submitted a written proposal dated March 10, 2005, hereinafter referred to as the "Contractor's Proposal" which is incorporated by reference herein; and,

WHEREAS, the County desires to procure from the Contractor such Governmental Representation and Consulting Services for the County, in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

The following words and expressions used in this Agreement shall be construed as follows, except when it is clear from the context that another meaning is intended:

- a) The words "Contract" or "Contract Documents" or "Agreement" to mean collectively these terms and conditions, the Scope of Services (Appendix A), RFQ No. 74 and all associated addenda and attachments, the Contractor's Proposal, and all other attachments hereto and all amendments issued hereto.
- b) The words "Contract Date" to mean the date on which this Agreement is effective.
- c) The words "Contract Manager" to mean Miami-Dade County's Director, Department of Procurement Management, or the duly authorized representative.
- d) The word "Contractor" or "Consultant" to mean Tew Cardenas LLP and its permitted successors and assigns.
- e) The word "Days" to mean Calendar Days.
- f) The word "Deliverables" to mean all documentation and any items of any nature submitted by the Contractor to the County's Project Manager for review and approval pursuant to the terms of this Agreement.
- g) The words "directed", "required", "permitted", "ordered", "designated", "selected", "prescribed" or words of like import to mean respectively, the direction, requirement, permission, order, designation, selection or prescription of the County's Project Manager; and similarly the words "approved", "acceptable", "satisfactory", "equal", "necessary", or words of like import to mean respectively, approved by, or acceptable or satisfactory to, equal or necessary in the opinion of the County's Project Manager.
- h) The words "Change Order" or "Extra Work" or "Additional Work" resulting in additions or deletions or modifications to the amount, type or value of the Work and Services as required in this Contract, as directed and/or approved by the County.
- i) The words "Project Manager" to mean the Executive Director of the Office of Intergovernmental Affairs or the duly authorized representative designated to manage the Contract.
- k) The words "Scope of Services" to mean the document appended hereto as Appendix A, which details the work to be performed by the Contractor.
- l) The word "subcontractor" or "subconsultant" to mean any person, entity, firm or corporation, other than the employees of the Contractor, who furnishes labor and/or materials, in connection with the Work, whether directly or indirectly, on behalf and/or under the direction of the Contractor and whether or not in privity of Contract with the Contractor.
- m) The words "Work", "Services" "Program", or "Project" to mean all matters and things required to be done by the Contractor in accordance with the provisions of this Contract.

- n) The words "Work Order" to mean a document that defines and describes the parameters of individual projects assigned or awarded by the County to the Contractor in accordance to the terms of the Contract.

ARTICLE 2. ORDER OF PRECEDENCE

If there is a conflict between or among the provisions of this Agreement, the order of precedence is as follows: 1) these terms and conditions, 2) the Scope of Services (Appendix A), 3) the Miami-Dade County's RFQ No. 74 and any associated addenda and attachments thereof, and 4) the Contractor's Proposal.

ARTICLE 3. RULES OF INTERPRETATION

- a) References to a specified Article, section or schedule shall be construed as reference to that specified Article, or section of, or schedule to this Agreement unless otherwise indicated.
- b) Reference to any agreement or other instrument shall be deemed to include such agreement or other instrument as such agreement or other instrument may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- c) The terms "hereof", "herein", "hereinafter", "hereby", "herewith", "hereto", and "hereunder" shall be deemed to refer to this Agreement.
- d) The titles, headings, captions and arrangements used in these Terms and Conditions are for convenience only and shall not be deemed to limit, amplify or modify the terms of this Contract, nor affect the meaning thereof.

ARTICLE 4. NATURE OF THE AGREEMENT

- a) The Contractor shall provide the services set forth in the Scope of Services, and render full and prompt cooperation with the County in all aspects of the Services performed hereunder.
- b) The Contractor acknowledges that this Agreement requires the performance of all things necessary for or incidental to the effective and complete performance of all Work and Services under this Contract. All things not expressly mentioned in this Agreement but necessary to carrying out its intent are required by this Agreement, and the Contractor shall perform the same as though they were specifically mentioned, described and delineated.
- c) The Contractor shall furnish all labor, materials, tools, supplies, and other items required to perform the Work and Services that are necessary for the completion of this Contract. All Work and Services shall be accomplished at the direction of and to the satisfaction of the County's Project Manager.
- d) The Contractor acknowledges that the County shall be responsible for making all policy decisions regarding the Scope of Services. The Contractor agrees to provide input on policy issues in the form of recommendations. The Contractor agrees to implement any and all changes in providing Services hereunder as a result of a policy change implemented by the County. The Contractor agrees to

act in an expeditious and fiscally sound manner in providing the County with input regarding the time and cost to implement said changes and in executing the activities required to implement said changes.

- e) The Consultant shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, which may have a bearing on the services involved in this agreement, including but not limited to, Section 2-11.1, Code of Miami-Dade County, Ordinance 72-82, as amended (Conflict of Interest Ordinance); Resolution No. R-1236-99; Resolution No. R-1060-93; Resolution No. R-232-01; and Section 2-11.1.2, Code of Miami-Dade County, Ordinance No. 00-64.

Pursuant to Resolution No. R-1236-99, no County contract lobbyist and his or her subcontractors shall represent any client and/or issue that may be adverse to the County without **first** requesting permission from the County. Resolution No. R-1236-99 provides that this obligation shall be a continuing one that applies throughout the term of the lobbyist's contract with the County.

Pursuant to Sections 2-11.1 and 2-11.1.2, no person or entity, whether an individual, firm, partnership or corporation, which receives compensation either directly or indirectly from the County for lobbying on behalf of the County or any of its agencies or instrumentalities at either the municipal, state, or national level shall represent any entity in any forum to support a position in opposition to a position of the County unless the Board of County Commissioners grants a specific waiver for a specific lobbying activity. The failure to comply with this provision shall result in either or both of the following: (i) the Consultant's contract being voidable by the County or (ii) a prohibition, for a period of up to three years, as determined by the Board of County Commissioners in its sole discretion, on the Consultant's entering into a lobbying contract with the County.

Concurrent with entering this Agreement, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, shall provide the Director of the Office of Intergovernmental Affairs a copy of the 2005 federal legislative and executive Lobbyist Registration Forms for each and every client the Consultant and his or her employees, partners, and subcontractors represents at the time this Agreement is entered. In the event the Consultant and his or her employees, partners, and subcontractors acquires additional clients after this Agreement is executed, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, shall have an affirmative obligation over the term of this Agreement (including a renewal term if applicable) to provide the Director of the Office of Intergovernmental Affairs a copy of the legislative and executive Lobbyist Registration Forms for such clients prior to undertaking any lobbying activities for such client or within 48 hours of filing the form with the federal government, whichever comes first. This obligation shall apply whether such party or interest is adverse to the County or not. Such notification must include all parties the Consultant or employees, partners, or subcontractors wishes to represent.

Separate and independent from the above-referenced obligation, the Consultant, on behalf of itself and any and all employees, partners, and subcontractors, must

advise the Director of the Office of Intergovernmental Affairs in writing of any position in opposition to a County position that the Consultant or any employee, partner, or subcontractor desires to take and request a waiver of such conflict before the Board of County Commissioners prior to taking such a position. A position in opposition to a County position may take the form of an adverse policy position or fiscal impact on the County, either direct or indirect. A position in opposition to a County position is not limited to a position that conflicts with an express provision of the legislative package adopted by the Board of County Commissioners. It may also arise in other areas. Not every County interest can be anticipated or enumerated in the County's legislative package, and issues arise and change over the course of the legislative process. It is incumbent on the Consultant and its employees, partners, and subcontractors to remain mindful of the County's policy and fiscal interests and positions vis-à-vis other clients. If an actual or perceived conflict arises, the Consultant and/or subcontractor must advise the Director of the Office of Intergovernmental Affairs immediately in writing and seek a waiver of the conflict before the Board of County Commissioners prior to representing the adverse interest or position.

The Director of the Office of Intergovernmental Affairs reserves the right to question or further question the Consultant regarding any client or any potential and/or perceived conflict.

Once a conflict waiver request has been received by the County, the County Manager or his designee, in consultation with the County Attorney's Office, reserves the right to take, in his sole discretion, any action regarding a waiver request, including but not limited to the following: (i) allow a waiver and allow the Consultant, and/or employee, partner, or subcontractor to continue to represent both the County and the other party; (ii) disallow a waiver and require the Consultant and/or employee, partner, or subcontractor to choose between representing the County or the other party, or to discontinue representing the other party; (iii) allow a limited waiver and require the Consultant and/or employee, partner, or subcontractor to continue to represent both the County and the other party under whatever limitations or restrictions the County Manager or his designee, in consultation with the County Attorney's Office, determines to be appropriate. Any such actions by the County Manager or his designee shall only be effective until the Board of County Commissioners has considered the conflict issue.

The Board of County Commissioners may take, in its sole discretion, any action regarding a waiver request, including but not limited to the following: (i) grant a waiver and allow the Consultant, and/or employee, partner, or subcontractor to continue to represent both the County and the other party; (ii) refuse to grant a waiver and require the Consultant and/or employee, partner, or subcontractor to choose between representing the County or the other party, or to discontinue representing the other party; (iii) refuse to grant a waiver and void its contract with the Consultant, and/or employee, partner, or subcontractor; (iv) grant a limited waiver and allow the Consultant and/or employee, partner, or subcontractor to continue to represent both the County and the other party under

whatever limitations or restrictions the County, in its sole discretion, determines to be appropriate.

Pursuant to Resolution No. R-1236-99, the Consultant and each subcontractor shall prepare reports at least monthly advising the Commission of the current status of all issues that the lobbyist is monitoring or tracking that may affect the County, the actions taken on such issues, and the recommendations for future actions on such issues. The Consultant and each subcontractor shall also raise, discuss and recommend any affirmative legislative action that may benefit the County.

Also, pursuant to Resolution No. R-1236-99, all County contracts and subcontracts for lobbying or representation at the state or federal level and/or individuals and firms hired to represent the County on intergovernmental issues must be approved by the Board of County Commissioners.

Pursuant to Resolution No. R-232-01, County lobbyists are instructed to limit legislative initiatives and funding requests on behalf of the County to those that have been approved by the Board of County Commissioners and/or set forth in the legislative package.

 Contractor has read, understands and agrees to abide by the conflict of interest and other provisions contained in this section 4(e).

ARTICLE 5. CONTRACT TERM

The Contract shall become effective on the date stipulated on the first page of the Agreement and shall be for a duration of one (1) year. The County, at its sole discretion, reserves the right to exercise the option to renew this Contract for a period for three (3) additional years on a year-to-year basis. The County reserves the right to exercise its option to extend a contract for up to one hundred-eighty (180) calendar days beyond the current Contract period and will notify the contractor in writing of the extension. This contract may be extended beyond the initial one hundred-eighty (180) calendar day extension period upon mutual agreement between the County and the successful proposer(s), upon approval by the Board of County Commissioners.

ARTICLE 6. NOTICE REQUIREMENTS

All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax and followed with delivery of hard copy; and in any case addressed as follows:

(1) to the County

a) to the Project Manager:

Miami-Dade County
Office of Intergovernmental Affairs
111 N.W. 1st Street, Suite 1032

Miami, FL 33128
Attention: Executive Director
Phone: (305) 375-5600
Fax: (305) 375-5639

and,
b) to the Contract Manager:

Miami-Dade County
Department of Procurement Management
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974
Attention: Director
Phone: (305) 375-5548
Fax: (305) 375-2316

(2) To the Contractor

Tew Cardenas LLP
1441 Brickell Avenue, 15th Floor
Miami, FL 33131
Attention: Alberto Cardenas
Phone: (305) 539-2480
Fax: (305) 536-1116

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

ARTICLE 7. PAYMENT FOR SERVICES/AMOUNT OBLIGATED

The Consultant warrants that it has reviewed the County's requirements and has asked such questions and conducted such other inquiries as the Consultant deemed necessary in order to determine the price the Consultant will charge to provide the Work and Services to be performed under this Contract. The compensation for all Work and Services performed under this Contract, including all costs associated with such Work and Services (including travel), shall be in a total amount not to exceed two hundred thousand dollars (\$200,000.00) per year. The County shall have no obligation to pay the Consultant any additional sum in excess of the amount set forth in the preceding sentence, except for a change and/or modification to the Contract that is approved and executed in writing by the County and the Consultant. Additionally, the County reserves the right to request through the use of Work Orders that the Consultant provide related services for the purpose of carrying out the intent of this Agreement, for an additional amount as specified in the Work Order based on the scope and nature of the work requested. The aggregate amount paid for work requested pursuant to Work Orders issued to the Consultant by the County shall not exceed one hundred thousand dollars (\$100,000.00) per year. The County shall also reimburse the Consultant for certain optional services, which have been approved by the County, pursuant to Appendix A, Scope of Services. The amount for the optional services shall not exceed seventy-five thousand (\$75,000.00) per year. This not-to-exceed amount for optional services represents the total aggregate amount for all consultants awarded contracts as a result of RFQ No. 74.

All Services undertaken by the Contractor before County's approval of this Contract

shall be at the Contractor's risk and expense.

With respect to travel costs and travel related expenses, the Contractor agrees to adhere to CH. 112.061 of the Florida Statutes as they pertain to out-of-pocket expenses including employee lodging, transportation, per diem, and all miscellaneous cost-and fees. The County shall not be liable for any such expenses that have not been approved in advance, in writing, by the County.

ARTICLE 8. PRICING

Prices shall remain firm and fixed for the term of the Contract including, any option years; however, the Contractor may offer incentive discounts to the County at any time during the contractual term and any extensions thereof.

ARTICLE 9. METHOD AND TIMES OF PAYMENT

The Contractor agrees that under the provisions of this Agreement, as reimbursement for those actual, reasonable and necessary costs incurred by the Contractor, which are directly attributable or properly allocable to the Services, the Contractor may bill the County periodically, but not more than once per month, upon invoices certified by the Contractor. All invoices shall be taken from the books of account kept by the Contractor, shall be supported by copies of payroll distribution, receipt bills or other documents reasonably required by the County and shall show the County's contract number. It is the policy of Miami-Dade County that payment for all purchases by County agencies and the Public Health Trust shall be made in a timely manner and that interest payments be made on late payments. In accordance with Florida Statutes, Section 218.74 and Section 2-8.1.4 of the Miami-Dade County Code, the time at which payment shall be due from the County or the Public Health Trust shall be forty-five days from receipt of a proper invoice. The time at which payment shall be due to small businesses and minority and women business enterprises shall be thirty (30) days from receipt of a proper invoice. All payments due from the County or the Public Health Trust, and not made within the time specified by this section shall bear interest from thirty (30) days after the due date at the rate of one percent (1%) per month on the unpaid balance. Further, proceedings to resolve disputes for payment of obligations shall be concluded by final written decision of the County Manager, or his or her designee(s), not later than sixty (60) days after the date on which the proper invoice was received by the County or the Public Health Trust.

Invoices and associated back-up documentation shall be submitted in duplicate by the Contractor to the County as follows:

Miami-Dade County
Office of Intergovernmental Affairs
111 N.W. 1st Street, Suite 1032
Miami, FL 33128
Attention: Executive Director

The County may at any time designate a different address and/or contact person by giving written notice to the other party.

ARTICLE 10. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by the Contractor or its employees, agents, servants, partners principals or subcontractors. The Contractor shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

Upon County's notification, the Contractor shall, furnish to Miami-Dade County, Department of Procurement Management, RFP Section, 111 N.W. 1st Street, Suite 1375, Miami, Florida 33128-1974, Certificates of Insurance that indicate that insurance coverage has been obtained, which meets the requirements as outlined below:

1. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440.
2. Public Liability Insurance on a comprehensive basis in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage. **Miami-Dade County must be shown as an additional insured with respect to this coverage. The mailing address of the Department of Procurement Management, as the certificate holder, must appear on the certificate of insurance.**
3. Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Services, in an amount not less than \$300,000 combined single limit per occurrence for bodily injury and property damage.
4. Errors & Omission Liability Insurance in an amount not less than \$250,000 with the deductible per claim, if any, not to exceed ten percent (10%) of the limit of liability.

The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operation of the Contractor. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida with the following qualifications:

The company must be rated no less than "B" as to management, and no less than "Class V" as to financial strength, according to the latest edition of Best's Insurance

Guide published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

OR

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Contractor hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the County.

NOTE: MIAMI-DADE COUNTY CONTRACT NUMBER AND TITLE MUST APPEAR ON EACH CERTIFICATE OF INSURANCE.

Compliance with the foregoing requirements shall not relieve the Contractor of this liability and obligation under this section or under any other section in this Agreement.

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after County notification to Contractor to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Agreement, the Contractor shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the County. If the Contractor fails to submit the required insurance documents in the manner prescribed in this Agreement within twenty (20) calendar days after County notification to comply, the Contractor shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the County.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the County. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the County at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the County shall suspend the Contract until such time as the new or renewed certificates are received by the County in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the County may, at its sole discretion, terminate this contract.

ARTICLE 11. MANNER OF PERFORMANCE

- a) The Contractor shall provide the Services described herein in a competent and

professional manner satisfactory to the County in accordance with the terms and conditions of this Agreement. The County shall be entitled to a satisfactory performance of all Services described herein and to full and prompt cooperation by the Contractor in all aspects of the Services. At the request of the County the Contractor shall promptly remove from the project any Contractor's employee, subcontractor, or any other person performing Services hereunder. The Contractor agrees that such removal of any of its employees does not require the termination or demotion of any employee by the Contractor.

- b) The Contractor agrees to defend, hold harmless and indemnify the County and shall be liable and responsible for any and all claims, suits, actions, damages and costs (including attorney's fees and court costs) made against the County, occurring on account of, arising from or in connection with the removal and replacement of any Contractor's personnel performing services hereunder at the behest of the County. Removal and replacement of any Contractor's personnel as used in this Article shall not require the termination and or demotion of such Contractor's personnel.
- c) The Contractor agrees that at all times it will employ, maintain and assign to the performance of the Services a sufficient number of competent and qualified professionals and other personnel to meet the requirements to which reference is hereinafter made. The Contractor agrees to adjust its personnel staffing levels or to replace any its personnel if so directed upon reasonable request from the County, should the County make a determination, in its sole discretion, that said personnel staffing is inappropriate or that any individual is not performing in a manner consistent with the requirements for such a position.
- d) The Contractor warrants and represents that its personnel have the proper skill, training, background, knowledge, experience, rights, authorizations, integrity, character and licenses as necessary to perform the Services described herein, in a competent and professional manner.
- e) The Contractor shall at all times cooperate with the County and coordinate its respective work efforts to most effectively and efficiently maintain the progress in performing the Services.
- f) The Contractor shall comply with all provisions of all federal, state and local laws, statutes, ordinances, resolutions, and regulations, as such may be amended from time-to-time, that are applicable to the performance of this Agreement.

ARTICLE 12. EMPLOYEES ARE THE RESPONSIBILITY OF THE CONTRACTOR

All employees of the Contractor shall be considered to be, at all times, employees of the Contractor under its sole direction and not employees or agents of the County. The Contractor shall supply competent employees. Miami-Dade County may require the Contractor to remove an employee it deems careless, incompetent, insubordinate or otherwise objectionable and whose continued employment on County property is not in the best interest of the County. Each employee shall have and wear proper identification.

ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent contractor, and not an employee, agent or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the Contractor's sole direction, supervision and control. The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent contractor and not as employees and agents of the County.

The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 14. AUTHORITY OF THE COUNTY'S PROJECT MANAGER

- a) The Contractor hereby acknowledges that the County's Project Manager will determine in the first instance all questions of any nature whatsoever arising out of, under, or in connection with, or in any way related to or on account of, this Agreement including without limitations: questions as to the value, acceptability and fitness of the Services; questions as to either party's fulfillment of its obligations under the Contract; negligence, fraud or misrepresentation before or subsequent to acceptance of the Proposal; questions as to the interpretation of the Scope of Services; and claims for damages, compensation and losses.
- b) The Contractor shall be bound by all determinations or orders and shall promptly obey and follow every order of the Project Manager, including the withdrawal or modification of any previous order and regardless of whether the Contractor agrees with the Project Manager's determination or order. Where orders are given orally, they will be issued in writing by the Project Manager as soon thereafter as is practicable.
- c) The Contractor must, in the final instance, seek to resolve every difference concerning the Agreement with the Project Manager. In the event that the Contractor and the Project Manager are unable to resolve their difference, the Contractor may initiate a dispute in accordance with the procedures set forth in this Article. Exhaustion of these procedures shall be a condition precedent to any lawsuit permitted hereunder.
- d) In the event of such dispute, the parties to this Agreement authorize the County Manager or designee, who may not be the Project Manager or anyone associated with this Project, acting personally, to decide all questions arising out of, under, or in connection with, or in any way related to or on account of the Agreement (including but not limited to claims in the nature of breach of contract, fraud or misrepresentation arising either before or subsequent to execution hereof) and the decision of each with respect to matters within the County Manager's purview as set forth above shall be conclusive, final and binding on parties. Any such dispute shall be brought, if at all, before the County Manager within 10 days of the occurrence, event or act out of which the dispute arises.
- e) The County Manager may base this decision on such assistance as may be desirable, including advice of experts, but in any event shall base the decision on

an independent and objective determination of whether Contractor's performance or any Deliverable meets the requirements of this Agreement and any specifications with respect thereto set forth herein. The effect of any decision shall not be impaired or waived by any negotiations or settlements or offers made in connection with the dispute, whether or not the County Manager participated therein, or by any prior decision of others, which prior decision shall be deemed subject to review, or by any termination or cancellation of the Agreement. All such disputes shall be submitted in writing by the Contractor to the County Manager for a decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. Whenever the County Manager is entitled to exercise discretion or judgement or to make a determination or form an opinion pursuant to the provisions of this Article, such action shall be fair and impartial when exercised or taken. The County Manager, as appropriate, shall render a decision in writing and deliver a copy of the same to the Contractor. Except as such remedies may be limited or waived elsewhere in the Agreement, Contractor reserves the right to pursue any remedies available under law after exhausting the provisions of this Article.

ARTICLE 15. MUTUAL OBLIGATIONS

- a) This Agreement, including attachments and appendixes to the Agreement, shall constitute the entire Agreement between the parties with respect hereto and supersedes all previous communications and representations or agreements, whether written or oral, with respect to the subject matter hereto unless acknowledged in writing by the duly authorized representatives of both parties.
- b) Nothing in this Agreement shall be construed for the benefit, intended or otherwise, of any third party that is not a parent or subsidiary of a party or otherwise related (by virtue of ownership control or statutory control) to a party.
- c) In those situations where this Agreement imposes an indemnity obligation on the Contractor, the County may, at its expense, elect to participate in the defense if the County should so choose. Furthermore, the County may at its own expense defend or settle any such claims if the Contractor fails to diligently defend such claims, and thereafter seek indemnity for costs from the Contractor.

ARTICLE 16. QUALITY ASSURANCE/QUALITY ASSURANCE RECORD KEEPING

The Contractor shall maintain, and shall require that its subcontractors and suppliers maintain, complete and accurate records to substantiate compliance with the requirements set forth in the Scope Of Services. The Contractor and its subcontractors and suppliers, shall retain such records, and all other documents relevant to the Services furnished under this Agreement for a period of three (3) years from the expiration date of this Agreement and any extension thereof.

ARTICLE 17. AUDITS

The Contractor agrees that the County or its duly authorized representatives or governmental agencies shall, until the expiration of three (3) years after the expiration of

this Agreement and any extension thereof, have access to and the right to examine and reproduce any of the Contractor's books, documents, papers and records and of its subcontractors and suppliers which apply to all matters of the County. Such records shall subsequently conform to Generally Accepted Accounting Principles requirements, and shall only address those transactions related to this Agreement.

The Contractor agrees to maintain an accounting system that provides accounting records that are supported with adequate documentation, and adequate procedures for determining the allowability and allocability of costs.

ARTICLE 18. SUBSTITUTION OF PERSONNEL

In the event the Contractor wishes to substitute personnel for the key personnel identified by the Contractor's Proposal, the Contractor must notify the County in writing and request written approval for the substitution at least ten (10) business days prior to effecting such substitution. The County reserves the right to approve or disapprove such substitution request in its sole discretion.

ARTICLE 19. CONSENT OF THE COUNTY REQUIRED FOR ASSIGNMENT

The Contractor shall not assign, transfer, convey or otherwise dispose of this Agreement, including its rights, title or interest in or to the same or any part thereof without the prior written consent of the County.

ARTICLE 20. SUBCONTRACTUAL RELATIONS

- a) If the Contractor will cause any part of this Agreement to be performed by a Subcontractor, the provisions of this Contract will apply to such Subcontractor and its officers, agents and employees in all respects as if it and they were employees of the Contractor; and the Contractor will not be in any manner thereby discharged from its obligations and liabilities hereunder, but will be liable hereunder for all acts and negligence of the Subcontractor, its officers, agents, and employees, as if they were employees of the Contractor. The services performed by the Subcontractor will be subject to the provisions hereof as if performed directly by the Contractor.
- b) The Contractor, before making any subcontract for any portion of the services, will state in writing to the County the name of the proposed Subcontractor, the portion of the Services which the Subcontractor is to do, the place of business of such Subcontractor, and such other information as the County may require. The County will have the right to require the Contractor not to award any subcontract to a person, firm or corporation disapproved by the County.
- c) Before entering into any subcontract hereunder, the Contractor will inform the Subcontractor fully and completely of all provisions and requirements of this Agreement relating either directly or indirectly to the Services to be performed. Such Services performed by such Subcontractor will strictly comply with the requirements of this Contract.
- d) In order to qualify as a Subcontractor satisfactory to the County, in addition to the other requirements herein provided, the Subcontractor must be prepared to prove to the satisfaction of the County that it has the necessary facilities, skill

and experience, and ample financial resources to perform the Services in a satisfactory manner. To be considered skilled and experienced, the Subcontractor must show to the satisfaction of the County that it has satisfactorily performed services of the same general type which is required to be performed under this Agreement.

- e) The County shall have the right to withdraw its consent to a subcontract if it appears to the County that the subcontract will delay, prevent, or otherwise impair the performance of the Contractor's obligations under this Agreement. All Subcontractors are required to protect the confidentiality of the County's and County's proprietary and confidential information. Contractor shall furnish to the County copies of all subcontracts between Provider and Subcontractors and suppliers hereunder. Within each such subcontract, there shall be a clause for the benefit of the County permitting the County to request completion of performance by the Subcontractor of its obligations under the subcontract, in the event the County finds the Contractor in breach of its obligations, the option to pay the Subcontractor directly for the performance by such subcontractor. Notwithstanding, the foregoing shall neither convey nor imply any obligation or liability on the part of the County to any subcontractor hereunder as more fully described herein.

ARTICLE 21. ASSUMPTION, PARAMETERS, PROJECTIONS, ESTIMATES AND EXPLANATIONS

The Contractor understands and agrees that any assumptions, parameters, projections, estimates and explanations presented by the County were provided to the Contractor for evaluation purposes only. However, since these assumptions, parameters, projections, estimates and explanations represent predictions of future events the County makes no representations or guarantees; and the County shall not be responsible for the accuracy of the assumptions presented; and the County shall not be responsible for conclusions to be drawn therefrom; and any assumptions, parameters, projections, estimates and explanations shall not form the basis of any claim by the Contractor. The Contractor accepts all risk associated with using this information.

ARTICLE 22. SEVERABILITY

If this Agreement contains any provision found to be unlawful, the same shall be deemed to be of no effect and shall be deemed stricken from this Agreement without affecting the binding force of this Agreement as it shall remain after omitting such provision.

ARTICLE 23. TERMINATION FOR CONVENIENCE AND SUSPENSION OF WORK

- a) The County may terminate this Agreement if an individual or corporation or other entity attempts to meet its contractual obligation with the County through fraud, misrepresentation or material misstatement.
- b) The County may, as a further sanction, terminate or cancel any other contract(s) that such individual or corporation or other entity has with the County and that such individual, corporation or other entity shall be responsible for all direct and indirect costs associated with such termination or cancellation, including attorney's fees.

- c) The foregoing notwithstanding, any individual, corporation or other entity which attempts to meet its contractual obligations with the County through fraud, misrepresentation or material misstatement may be disbarred from County contracting for up to five (5) years in accordance with the County debarment procedures. The Contractor may be subject to debarment for failure to perform and all other reasons set forth in Section 10-38 of the County Code.

In addition to cancellation or termination as otherwise provided in this Agreement, the County may at any time, in its sole discretion, with or without cause, terminate this Agreement by written notice to the Contractor and in such event:

- d) The Contractor shall, upon receipt of such notice, unless otherwise directed by the County:
- i. stop work on the date specified in the notice ("the Effective Termination Date");
 - ii. take such action as may be necessary for the protection and preservation of the County's materials and property;
 - iii. cancel orders;
 - iv. assign to the County and deliver to any location designated by the County any noncancelable orders for Deliverables that are not capable of use except in the performance of this Agreement and has been specifically developed for the sole purpose of this Agreement and not incorporated in the Services;
 - v. take no action which will increase the amounts payable by the County under this Agreement; and
- e) In the event that the County exercises its right to terminate this Agreement pursuant to this Article the Contractor will be compensated as stated in the payment Articles, herein, for the:
- i. portion of the Services completed in accordance with the Agreement and the Work Order up to the Effective Termination Date; and
 - ii. noncancelable Deliverables that are not capable of use except in the performance of this Agreement and Work Order and has been specifically developed for the sole purpose of this Agreement Work Order but not incorporated in the Services.
- f) All compensation pursuant to this Article are subject to audit.

ARTICLE 24. EVENT OF DEFAULT

- a) An Event of Default shall mean a breach of this Agreement by the Contractor.

Without limiting the generality of the foregoing and in addition to those instances referred to herein as a breach, an Event of Default, shall include the following:

- i. the Contractor has not delivered Deliverables on a timely basis.
 - ii. the Contractor has refused or failed, except in case for which an extension of time is provided, to supply enough properly skilled Staff Personnel;
 - iii. the Contractor has failed to make prompt payment to subcontractors or suppliers for any Services;
 - iv. the Contractor has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of the Contractor's creditors, or the Contractor has taken advantage of any insolvency statute or debtor/creditor law or if the Contractor's affairs have been put in the hands of a receiver;
 - v. the Contractor has failed to obtain the approval of the County where required by this Agreement;
 - vi. the Contractor has failed to provide "adequate assurances" as required under subsection "b" below;
 - vii. the Contractor has failed in the representation of any warranties stated herein.
- b) When, in the opinion of the County, reasonable grounds for uncertainty exist with respect to the Contractor's ability to perform the Services or any portion thereof, the County may request that the Contractor, within the time frame set forth in the County's request, provide adequate assurances to the County, in writing, of the Contractor's ability to perform in accordance with terms of this Agreement. Until the County receives such assurances the County may request an adjustment to the compensation received by the Contractor for portions of the Services which the Contractor has not performed. In the event that the Contractor fails to provide to the County the requested assurances within the prescribed time frame, the County may:
- i. treat such failure as a repudiation of this Agreement;
 - ii. resort to any remedy for breach provided herein or at law, including but not limited to, taking over the performance of the Services or any part thereof either by itself or through others.
- c) In the event the County shall terminate this Agreement for default, the County or its designated representatives, may immediately take possession of all applicable equipment, materials, products, documentation, reports and data.

ARTICLE 25. NOTICE OF DEFAULT - OPPORTUNITY TO CURE /TERMINATION

If an Event of Default occurs, in the determination of the County, the County may so notify the Contractor ("Default Notice"), specifying the basis for such default, and advising the Contractor that such default must be cured immediately or this Agreement with the County may be terminated. Notwithstanding, the County may, in its sole discretion, allow the Contractor to rectify the default to the County's reasonable

satisfaction within a thirty (30) day period. The County may grant an additional period of such duration as the County shall deem appropriate without waiver of any of the County's rights hereunder, so long as the Contractor has commenced curing such default and is effectuating a cure with diligence and continuity during such thirty (30) day period or any other period which the County prescribes. The default notice shall specify the date the Contractor shall discontinue the Services upon the Termination Date.

ARTICLE 26. REMEDIES IN THE EVENT OF DEFAULT

If an Event of Default occurs, the Contractor shall be liable for all damages resulting from the default, including but not limited to:

- a) lost revenues;
- b) the difference between the cost associated with procuring Services hereunder and the amount actually expended by the County for reprourement of Services, including procurement and administrative costs; and,
- c) such other direct damages.

The Contractor shall also remain liable for any liabilities and claims related to the Contractor's default.

The County may also bring any suit or proceeding for specific performance or for an injunction.

ARTICLE 27. PATENT AND COPYRIGHT INDEMNIFICATION

- a) The Contractor warrants that all Deliverables furnished hereunder, including but not limited to: equipment programs, documentation, software, analyses, applications, methods, ways, processes, and the like, do not infringe upon or violate any patent, copyrights, service marks, trade secret, or any other third party proprietary rights.
- b) The Contractor shall be liable and responsible for any and all claims made against the County for infringement of patents, copyrights, service marks, trade secrets or any other third party proprietary rights, by the use or supplying of any programs, documentation, software, analyses, applications, methods, ways, processes, and the like, in the course of performance or completion of, or in any way connected with, the Work, or the County's continued use of the Deliverables furnished hereunder. Accordingly, the Contractor at its own expense, including the payment of attorney's fees, shall indemnify, and hold harmless the County and defend any action brought against the County with respect to any claim, demand, cause of action, debt, or liability.
- c) In the event any Deliverable or anything provided to the County hereunder, or portion thereof is held to constitute an infringement and its use is or may be enjoined, the Contractor shall have the obligation to, at the County's option to (i) modify, or require that the applicable subcontractor or supplier modify, the

alleged infringing item(s) at its own expense, without impairing in any respect the functionality or performance of the item(s), or (ii) procure for the County, at the Contractor's expense, the rights provided under this Agreement to use the item(s).

- d) The Contractor shall be solely responsible for determining and informing the County whether a prospective supplier or subcontractor is a party to any litigation involving patent or copyright infringement, service mark, trademark, violation, or proprietary rights claims or is subject to any injunction which may prohibit it from providing any Deliverable hereunder. The Contractor shall enter into agreements with all suppliers and subcontractors at the Contractor's own risk. The County may reject any Deliverable that it believes to be the subject of any such litigation or injunction, or if, in the County's judgment, use thereof would delay the Work or be unlawful.
- e) The Contractor shall not infringe any copyright, trademark, service mark, trade secrets, patent rights, or other intellectual property rights in the performance of the Work.

ARTICLE 28. CONFIDENTIALITY

- a) All Developed Works and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods obtained from the County in connection with the Services performed under this Agreement, made or developed by the Contractor or its subcontractors in the course of the performance of such Services, or the results of such Services, or which the County holds the proprietary rights, constitute Confidential Information and may not, without the prior written consent of the County, be used by the Contractor or its employees, agents, subcontractors or suppliers for any purpose other than for the benefit of the County, unless required by law. In addition to the foregoing, all County employee information and County financial information shall be considered confidential information and shall be subject to all the requirements stated herein. Neither the Contractor nor its employees, agents, subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to others any part of such Confidential Information without the prior written consent of the County. Additionally, the Contractor expressly agrees to be bound by and to defend, indemnify and hold harmless the County, and their officers and employees from the breach of any federal, state or local law in regard to the privacy of individuals.
- b) The Contractor shall advise each of its employees, agents, subcontractors and suppliers who may be exposed to such Confidential Information of their obligation to keep such information confidential and shall promptly advise the County in writing if it learns of any unauthorized use or disclosure of the Confidential Information by any of its employees or agents, or subcontractor's or supplier's employees, present or former. In addition, the Contractor agrees to cooperate fully and provide any assistance necessary to ensure the confidentiality of the Confidential Information.

- c) It is understood and agreed that in the event of a breach of this Article damages may not be an adequate remedy and the County shall be entitled to injunctive relief to restrain any such breach or threatened breach. Unless otherwise requested by the County, upon the completion of the Services performed hereunder, the Contractor shall immediately turn over to the County all such Confidential Information existing in tangible form, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors or suppliers without the prior written consent of the County. A certificate evidencing compliance with this provision and signed by an officer of the Contractor shall accompany such materials.

ARTICLE 29. PROPRIETARY INFORMATION

As a political subdivision of the State of Florida, Miami-Dade County is subject to the stipulations of Florida's Public Records Law.

The Contractor acknowledge that all computer software in the County's possession may constitute or contain information or materials which the County has agreed to protect as proprietary information from disclosure or unauthorized use and may also constitute or contain information or materials which the County has developed at its own expense, the disclosure of which could harm the County's proprietary interest therein.

During the term of the contract, the contractors will not use directly or indirectly for itself or for others, or publish or disclose to any third party, or remove from the County's property, any computer programs, data compilations, or other software which the County has developed, has used or is using, is holding for use, or which are otherwise in the possession of the County (hereinafter "Computer Software"). All third-party license agreements must also be honored by the contractors and their employees, except as authorized by the County and, if the Computer Software has been leased or purchased by the County, all hired party license agreements must also be honored by the contractors' employees with the approval of the lessor or Contractors thereof. This includes mainframe, minis, telecommunications, personal computers and any and all information technology software.

The Contractor will report to the County any information discovered or which is disclosed to the Contractor which may relate to the improper use, publication, disclosure or removal from the County's property of any information technology software and hardware and will take such steps as are within the Contractor's authority to prevent improper use, disclosure or removal.

ARTICLE 30. PROPRIETARY RIGHTS

- a) The Contractor hereby acknowledges and agrees that the County retains all rights, title and interests in and to all materials, data, documentation and copies thereof furnished by the County to the Contractor hereunder or furnished by the Contractor to the County and/or created by the Contractor for delivery to the

County, even if unfinished or in process, as a result of the Services the Contractor performs in connection with this Agreement, including all copyright and other proprietary rights therein, which the Contractor as well as its employees, agents, subcontractors and suppliers may use only in connection of the performance of Services under this Agreement. The Contractor shall not, without the prior written consent of the County, use such documentation on any other project in which the Contractor or its employees, agents, subcontractors or suppliers are or may become engaged. Submission or distribution by the Contractor to meet official regulatory requirements or for other purposes in connection with the performance of Services under this Agreement shall not be construed as publication in derogation of the County's copyrights or other proprietary rights.

- b) All rights, title and interest in and to certain inventions, ideas, designs and methods, specifications and other documentation related thereto developed by the Contractor and its subcontractors specifically for the County, hereinafter referred to as "Developed Works" shall become the property of the County.
- c) Accordingly, neither the Contractor nor its employees, agents, subcontractors or suppliers shall have any proprietary interest in such Developed Works. The Developed Works may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, agent, subcontractor or supplier thereof, without the prior written consent of the County, except as required for the Contractor's performance hereunder.
- d) Except as otherwise provided in subsections a, b, and c above, or elsewhere herein, the Contractor and its subcontractors and suppliers hereunder shall retain all proprietary rights in and to all Licensed Software provided hereunder, that have not been customized to satisfy the performance criteria set forth in the Scope of Services. Notwithstanding the foregoing, the Contractor hereby grants, and shall require that its subcontractors and suppliers grant, if the County so desires, a perpetual, irrevocable and unrestricted right and license to use, duplicate, disclose and/or permit any other person(s) or entity(ies) to use all such Licensed Software and the associated specifications, technical data and other Documentation for the operations of the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. Such license specifically includes, but is not limited to, the right of the County to use and/or disclose, in whole or in part, the technical documentation and Licensed Software, including source code provided hereunder, to any person or entity outside the County for such person's or entity's use in furnishing any and/or all of the Deliverables provided hereunder exclusively for the County or entities controlling, controlled by, under common control with, or affiliated with the County, or organizations which may hereafter be formed by or become affiliated with the County. No such License Software, specifications, data, documentation or related information shall be deemed to have been given in confidence and any statement or legend to the contrary shall be void and of no effect.

ARTICLE 31. BUSINESS APPLICATION AND FORMS

Business Application The Contractor shall be a registered vendor with the County – Department of Procurement Management, for the duration of this Agreement. It is the responsibility of the Contractor to file the appropriate Vendor Application and to update the Application file for any changes for the duration of this Agreement, including any option years.

Section 2-11.1(d) of Miami-Dade County Code as amended by Ordinance 00-1, requires any county employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County from competing or applying for any such contract as it pertains to this solicitation, must first request a conflict of interest opinion from the County's Ethic Commission prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable. For additional information, please contact the Ethics Commission hotline at (305) 579-2593.

ARTICLE 32. INSPECTOR GENERAL REVIEWS**Independent Private Sector Inspector General Reviews**

Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision herein, apply to the Contractor, its officers, agents, employees, subcontractors and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

Miami-Dade County Inspector General Review

According to Section 2-1076 of the Code of Miami-Dade County, as amended by Ordinance No. 99-63, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts, except as otherwise provided below. The cost of the audit for this Contract shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The

audit cost shall also be included in all change orders and all contract renewals and extensions.

Exception: The above application of one quarter (1/4) of one percent fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Commission; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Administrative Order 3-2; (m) federal, state and local government-funded grants; and (n) interlocal agreements. ***Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter (1/4) of one percent in any exempted contract at the time of award***

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present and proposed County and Public Health Trust contracts, transactions, accounts, records and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of independent private sector inspectors general (IPSIG) to audit, investigate, monitor, oversee, inspect and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

ARTICLE 33. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS

Contractor agrees to comply, subject to applicable professional standards, with the provisions of any and all applicable Federal, State and the County orders, statutes,

ordinances, rules and regulations which may pertain to the Services required under this Agreement, including but not limited to:

- a) Equal Employment Opportunity (EEO), in compliance with Executive Order 11246 as amended and applicable to this Contract.
- b) Miami-Dade County Florida, Department of Business Development Participation Provisions, as applicable to this Contract.
- c) Environmental Protection Agency (EPA), as applicable to this Contract.
- d) Miami-Dade County Code, Chapter 11A, Article 3. All contractors and subcontractors performing work in connection with this Contract shall provide equal opportunity for employment because of race, religion, color, age, sex, national origin, sexual preference, disability or marital status. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous place available for employees and applicants for employment, such notices as may be required by the Dade County Fair Housing and Employment Commission, or other authority having jurisdiction over the work setting forth the provisions of the nondiscrimination law.
- e) "Conflicts of Interest" Section 2-11 of the County Code, and Ordinance 01-199.
- f) Miami-Dade County Code Section 10-38 "Debarment".
- g) Miami-Dade County Ordinance 99-5, codified at 11A-60 et. seq. of Miami-Dade Code pertaining to complying with the County's Domestic Leave Ordinance.
- h) Miami-Dade County Ordinance 99-152, prohibiting the presentation, maintenance, or prosecution of false or fraudulent claims against Miami-Dade County.

Notwithstanding any other provision of this Agreement, Contractor shall not be required pursuant to this Agreement to take any action or abstain from taking any action if such action or abstention would, in the good faith determination of the Contractor, constitute a violation of any law or regulation to which Contractor is subject, including but not limited to laws and regulations requiring that Contractor conduct its operations in a safe and sound manner.

ARTICLE 34. NONDISCRIMINATION

During the performance of this Contract, Contractor agrees to: not discriminate against any employee or applicant for employment because of race, religion, color, sex, handicap, marital status, age or national origin, and will take affirmative action to ensure that they are afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation, and selection for training or retraining, including apprenticeship and on the job training.

By entering into this Contract with the County, the Contractor attests that it is not in

violation of the Americans with Disabilities Act of 1990 (and related Acts) or Miami-Dade County Resolution No. R-385-95. If the Contractor or any owner, subsidiary or other firm affiliated with or related to the Contractor is found by the responsible enforcement agency or the County to be in violation of the Act or the Resolution, such violation shall render this Contract void. This Contract shall be void if the Contractor submits a false affidavit pursuant to this Resolution or the Contractor violates the Act or the Resolution during the term of this Contract, even if the Contractor was not in violation at the time it submitted its affidavit.

ARTICLE 35. CONFLICT OF INTEREST

The Contractor represents that:

- a) No officer, director, employee, agent, or other consultant of the County or a member of the immediate family or household of the aforesaid has directly or indirectly received or been promised any form of benefit, payment or compensation, whether tangible or intangible, in connection with the grant of this Agreement.
- b) There are no undisclosed persons or entities interested with the Contractor in this Agreement. This Agreement is entered into by the Contractor without any connection with any other entity or person making a proposal for the same purpose, and without collusion, fraud or conflict of interest. No elected or appointed officer or official, director, employee, agent or other consultant of the County, or of the State of Florida (including elected and appointed members of the legislative and executive branches of government), or a member of the immediate family or household of any of the aforesaid:
 - i) is interested on behalf of or through the Contractor directly or indirectly in any manner whatsoever in the execution or the performance of this Agreement, or in the services, supplies or work, to which this Agreement relates or in any portion of the revenues; or
 - ii) is an employee, agent, advisor, or consultant to the Contractor or to the best of the Contractor's knowledge any subcontractor or supplier to the Contractor.
- c) Neither the Contractor nor any officer, director, employee, agency, parent, subsidiary, or affiliate of the Contractor shall have an interest which is in conflict with the Contractor's faithful performance of its obligation under this Agreement; provided that the County, in its sole discretion, may consent in writing to such a relationship, provided the Contractor provides the County with a written notice, in advance, which identifies all the individuals and entities involved and sets forth in detail the nature of the relationship and why it is in the County's best interest to consent to such relationship.
- d) The provisions of this Article are supplemental to, not in lieu of, all applicable laws with respect to conflict of interest. In the event there is a difference between the standards applicable under this Agreement and those provided by statute, the stricter standard shall apply.
- e) In the event Contractor has no prior knowledge of a conflict of interest as set forth above and acquires information which may indicate that there may be an actual or apparent violation of any of the above, Contractor shall promptly bring such information to the attention of the County's Project Manager. Contractor

shall thereafter cooperate with the County's review and investigation of such information, and comply with the instructions Contractor receives from the Project Manager in regard to remedying the situation.

ARTICLE 36. PRESS RELEASE OR OTHER PUBLIC COMMUNICATION

Under no circumstances shall the Contractor without the express written consent of the County:

- a) Issue or permit to be issued any press release, advertisement or literature of any kind which refers to the County, or the Work being performed hereunder, unless the Contractor first obtains the written approval of the County. Such approval may be withheld if for any reason the County believes that the publication of such information would be harmful to the public interest or is in any way undesirable; and
- b) Communicate in any way with any contractor, department, board, agency, commission or other organization or any person whether governmental or private in connection with the Services to be performed hereunder except upon prior written approval and instruction of the County; and
- c) Except as may be required by law, the Contractor and its employees, agents, subcontractors and suppliers will not represent, directly or indirectly, that any product or service provided by the Contractor or such parties has been approved or endorsed by the County.

ARTICLE 37. BANKRUPTCY

The County reserves the right to terminate this contract, if, during the term of any contract the Contractor has with the County, the Contractor becomes involved as a debtor in a bankruptcy proceeding, or becomes involved in a reorganization, dissolution, or liquidation proceeding, or if a trustee or receiver is appointed over all or a substantial portion of the property of the Contractor under federal bankruptcy law or any state insolvency law.

ARTICLE 38. GOVERNING LAW

This Contract, including appendices, and all matters relating to this Contract (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of Florida.

ARTICLE 39. COUNTY USER ACCESS PROGRAM (UAP)

a) User Access Fee

Pursuant to Miami-Dade County Budget Ordinance No. 03-192, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from this solicitation and the utilization of the County contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to

all contract usage whether by County Departments or by any other governmental, quasi-governmental or not-for-profit entity.

- The Contractor providing goods or services under this Contract shall invoice the contract price and shall accept as payment thereof the contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Vendor participation in this invoice reduction portion of the UAP is mandatory.

b) Joint Purchase

Only those entities that have been approved by the County for participation in the County's Joint Purchase and Entity Revenue Sharing Agreement are eligible to utilize or receive County contract pricing and terms and conditions. The County will provide to approved entities a UAP Participant Validation Number. The Contractor must obtain the participation number from the entity prior to filling any order placed pursuant to this section. Contractor participation in this joint purchase portion of the UAP, however, is voluntary. The Contractor shall notify the ordering entity, in writing, within 3 work days of receipt of an order, of a decision to decline the order.

For all ordering entities located outside the geographical boundaries of Miami-Dade County, the Contractor shall be entitled to ship goods on an "FOB Destination, Prepaid and Charged Back" basis. This allowance shall only be made when expressly authorized by a representative of the ordering entity prior to shipping the goods.

The County shall have no liability to the Contractor for the cost of any purchase made by an ordering entity under the UAP and shall not be deemed to be a party thereto. All orders shall be placed directly by the ordering entity with the Contractor and shall be paid by the ordering entity less the 2% UAP.

c) Contractor Compliance

If a Contractor fails to comply with this Article, that Contractor may be considered in default by the County in accordance with Article 24 of this Contract.

ARTICLE 40. SURVIVAL

The parties acknowledge that any of the obligations in this Agreement will survive the term, termination and cancellation hereof. Accordingly, the respective obligations of the Contractor and the County under this Agreement, which by nature would continue beyond the termination, cancellation or expiration thereof, shall survive termination, cancellation or expiration hereof.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the contract date herein above set forth.

Contractor

Miami-Dade County

By: 

By: _____

Name: MATIAS R. DORTA

Name: _____

Title: PARTNER

Title: _____

Date: 12/23/05

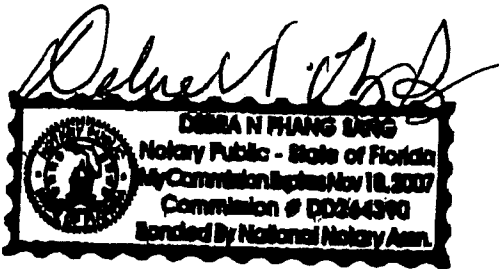
Date: _____

Attest: _____
Secretary

Attest: _____
Clerk of the Board

Corporate Seal

Approved as to form
and legal sufficiency



Assistant County Attorney

Appendix A

SCOPE OF SERVICES

1. INTRODUCTION

Miami-Dade County, hereinafter referred to as the "County", is contracting for the professional services of experienced and qualified law firms, governmental affairs consulting firms, businesses, individuals, and/or a combination thereof to provide the County with governmental representation before the executive and legislative branches of the federal government.

A. Qualifications

1. The Consultant should, at a minimum, possess a) a strong working knowledge of legislative, administrative, and regulatory processes at the federal level; b) a clear understanding of Miami-Dade County, the federal programs administered by the County, and a knowledge of the funding needs and policy issues important to the County; c) a history of successful lobbying experience at the federal level; d) a clear strategy for representing the County at meetings with key legislators and members of the Executive Branch; e) the ability to liaison with Members of Congress, the federal agencies, and the White House; f) expertise to provide legal and legislative research upon request; g) resources to attend congressional and administrative hearings, monitor legislative and administrative developments, and report back to County staff; h) experience in identifying and securing various sources of federal funding; i) experience in coordinating communications and meetings with Members of Congress and the Administration; j) experience in working with Senate and House committees; k) resources to help facilitate meetings with and communications between committee leadership and senior staff; and l) the ability to provide timely notice of hearings. The Consultant shall be able to provide written and verbal reports. Additionally, the Consultant may be required to provide office space, phones, parking, computer equipment, supplies, clerical office equipment, and clerical support to County staff while they are assigned to Washington, DC.
2. The Consultant should possess a substantial knowledge of past and existing maritime issues including, but not limited to a) expertise identifying and securing dredging authorizations and/or appropriations; b) working knowledge of existing and/or proposed fees or tariffs on the industry; c) experience identifying grant programs and successful experience secure funding from such grant programs for port security and/or other related port infrastructure improvements; d) knowledge of other ports' activities and legislative actions; and e) involvement with American Association of Port Authority's legislative policies and recommendations. The County will permit this expertise to be provided through subcontractual relationships.
3. The Consultant should possess a strong working knowledge of federal legislative, administrative and regulatory processes and issues related to the aviation industry, including but not limited to a) a working knowledge of the Airport Improvement Program, Passenger Facility Charges, federal aviation security regulations and funding opportunities, and federal environmental and aircraft noise regulations and funding programs; b) a history of successful advocacy on behalf of airports before Congress and the Administration; c) established relationships with key Members of Congress in leadership positions, particularly the Chairman and Ranking Members of committees with oversight over aviation issues, senior staff of such committees, and key Administration officials including, but not limited to, the Office of the President, the Department of Transportation, the Federal Aviation Administration, the Transportation Security Administration, the Department of the Treasury, the U.S. Customs Service, the Department of the Justice, the U.S. Immigration and Naturalization Service, and the future Homeland Security Department; and d) experience in representing airports and/or airlines in bilateral civil aviation consultations and negotiations between the United States and foreign governments and in representing airports in

international air route proceedings. The County will permit this expertise to be provided through sub contractual relationships.

The Consultant shall not represent any other airport that, in the sole judgment of the County, competes with Miami International Airport. Competitor airports shall include, but shall not be limited to, Atlanta Hartsfield International Airport, John F. Kennedy International Airport in New York and Houston Intercontinental Airport. Consultant shall have an affirmative obligation to notify the County Manager and the Office of Intergovernmental Affairs in writing of each and every airport the Consultant and/or its employees, partners, or subcontractors wishes to represent before Congress, the Administration or any federal agency, as well as the nature of the proposed representation.

B. Non-exclusivity/Assignment of Work

It is the County's intention to award multiple contracts for these services. Additionally, the County may issue Work Orders for specific projects or federal subject areas/issues, for the purposes of carrying out the intent of the requirements herein. The County may also require the Consultant to provide optional services, as further defined in Section 3 below. The County reserves the right to request that the Consultant obtain services through subcontractors to supplement the expertise and resources which may be required at any given time and for the purposes of carrying out the intent of the requirements herein.

2. REQUIREMENTS AND SERVICES TO BE PROVIDED

A. Lobbying Ordinances and Resolution Requirements

The Consultant shall abide by and be governed by Miami-Dade County Ordinances and Resolutions, some which may have a bearing on the services involved in this Agreement, including but not limited to, Ordinance No. 72-82 (Conflict of Interest Ordinance), Resolution No. R-1236-99, and Ordinance No. 00-64. (Refer to Article 4, Nature of the Agreement, subsection "e".)

B. Representation and Consulting Services

The Consultant shall provide governmental representation and consulting services requested by the County, for various subjects/issues assigned to the Consultant, including but not limited to those examples listed in Appendix B. The Consultant will receive issue and project assignments based on the County's annual legislative package.

The Consultant shall:

- a) Report and meet with the County on a weekly basis, or on an as needed basis, while the Congress is in session on those issues important to the County and the actions taken on such issues.
- b) Report and meet with the County on a monthly basis when the Congress is not in session.
- c) Prepare monthly reports (weekly during the Legislative session), in a timely manner, advising the County of the current status of all issues that they are monitoring or tracking that may affect Miami-Dade County, the actions taken on such issues, and recommendations for future actions on such issues.
- d) Raise, discuss and recommend any affirmative legislative action that may benefit the County.
- e) Be available, if requested, on a twenty-four hour basis during the session: assisting in writing, interpreting, and monitoring legislation and regulations; drafting legislation, amendments, proviso language, position papers, and testimony; and providing monthly written progress reports detailing services that have been rendered.

- f) Provide a full range of lobbying, legislative counsel and advocacy services including preparing reports and advising the County of the current status of legislation while Congress is in session.
- g) Integrate its efforts with the County's Office of Intergovernmental Affairs to ensure a strong consistent legislative program.
- h) Be prepared to obtain documentation and research materials upon request.
- i) Forward all required reports to the County upon request by the County in the number of copies as requested by the County for that particular instance.
- j) Upon request, arrange for meetings with Members of Congress, including Members of the Miami-Dade County Delegation, as well as Members in leadership positions such as Chairman and Ranking Members of key committees. Arrange meetings with senior staff of Congressional Committees and key officials at both the White House and key Administrative Agencies.

3. OPTIONAL SERVICES

The County may need office space for County staff in the vicinity of the Capitol with ancillary services that include, but are not limited to, parking, phones, facsimile, copy machine, personal computer with appropriate software and hardware (identified by the County), filing space, and clerical assistance, including an administrative assistant and an intern/runner (available for said County staff for the entirety of the session) to ensure adequate coordination between Washington and Miami-Dade County. The County may also request other optional services such as travel for special projects at the County's request, and food, non-alcoholic beverage and reception services directly related to County lobbying efforts. The County has the option of requiring the Consultant to provide these optional services at an agreed upon cost.

Federal Subject Areas/Issues

- a) Federal Appropriations/Earmarks
- b) Unfunded Mandates
- c) Aviation – Federal Inspection Services, Explosive Detection System (EDS) Installation, FAA funding, Transportation Security Administration (TSA), aviation security, passenger screening, cargo and capital improvement issues, international trade
- d) Seaport – Corps of Engineers (dredging projects), Coast Guard, Customs and Boarder Protection, maritime security, cargo and cruise passenger issues, international trade, Water Resource Development Act (WRDA)
- e) Transit – Metro-rail expansion, Federal Transit Administration (FTA) approval process, project authorization, bus and bus related projects
- f) Solid Waste Management
- g) Community Development/Urban Initiatives – Empowerment Zone and Performing Arts Center
- h) Housing/Homeless Programs
- i) Business Development and Retention
- j) Environmental Issues and Environmental Infrastructure Projects – including Everglades Restoration, Beach Erosion Control/Renourishment, and Flood Mitigation
- k) Agricultural Issues – Country of origin labeling, APHIS
- l) Base Realignment and Closure (BRAC) - Homestead Air Reserve Base (interagency planning, training and redevelopment) and U.S. Southern Command (permanent relocation on state land)
- m) Water and Sewer Issues and Projects
- n) Immigration –program funding, federal programs, Administration initiatives, reform
- o) Homeland Security – funding, grants, large urban county issues, Urban Areas Security Initiative (UASI), grants
- p) Criminal and Juvenile Justice – public safety, crime prevention, juvenile justice, gun violence prevention
- q) Healthcare/Medicare/AIDS
- r) Welfare Reform Implementation/Changes
- s) Human/Social Services
- t) Head State/Early Head Start/Education Reform
- u) Planning, Development and Zoning
- v) FEMA, mitigation and preparedness
- w) Telecommunications/E Commerce – regulation and taxation

- x) Consumer Protection – predatory lending, regulation of towing, telecommunications
- y) Finance and Taxation
- z) Election Reform
- aa) Utility Deregulation/Energy Reform
- bb) Mosquito Control, West Nile Virus
- cc) International trade, trade agreements, aviation bi-laterals
- dd) FTAA

Memorandum



Date: December 13, 2005

To: Miriam Singer
Director
Department of Procurement Management

Thru: Amos Roundtree
Director, Purchasing Division
Department of Procurement Management

From: Rita A. Silva *RS*
Chairperson-
Evaluation/Selection Committee

Subject: Report of Evaluation/Selection Committee RFQ No. 74, Governmental Representation and Consulting Services in Washington, DC

The Evaluation/Selection Committee has completed the task of evaluating proposals submitted in response to the above referenced Request for Qualifications ("RFQ") following the guidelines published in the RFQ solicitation as summarized below.

Committee meeting dates: November 14, 2005 (kick-off), November 29, 2005 (technical evaluation) and December 9, 2005 (oral presentations)

Verification of compliance with contract measures: Notification of this solicitation was sent to the Department of Business Development. However, no measure could be assigned since the Small Business Enterprise Program had not begun.

Verification of compliance with minimum qualification requirements: The RFQ did not have any minimum qualification requirements.

Summary of Committee scores:

Scores Pre-oral Presentations (max. 700 points):

<i>Proposer</i>	<i>Technical Score</i>
1. Alcalde & Fay	617
2. Greenberg Traurig, P.A.	611
3. Tew Cardenas LLP	600
4. Van Scoyoc Associates, Inc.	551
5. Akerman Senterfitt	515
6. Foley and Lardner LLP	510
7. Barbour Griffith & Roger, LLC	491
8. Global USA, Inc.	489
9. Dutko Worldwide	465
10. MWW Group	444
11. Adorno & Yoss	430
12. Quinn Gillespie & Associates	411
13. Federalist Group, LLC	356
14. Marlowe & Company	319

The Committee decided to hold oral presentations with those firms remaining in consideration, the top five firms, after the initial review and scoring of the proposals.

Scores Post Oral Presentations (max. 700 points):

<i>Proposer</i>	<i>Technical Score</i>	<i>Local Preference* (# - 5% = #)</i>
1. Greenberg Traurig, P.A.	639	607.05
2. Alcalde & Fay	626 -	
3. Tew Cardenas LLP	600	
4. Van Scoyoc Associates, Inc.	571	
5. Akerman Senterfitt	526	

***Local Preference:** Local Preference was considered in accordance with applicable ordinances, but did not affect the outcome as the only firm within 5% of the top ranked firm is also being recommended for negotiations. The number provided in the "Local Preference" column above, indicates the score that a local firm would have to reach in order to claim local preference (if the top-ranked firm is a non-local firm).

Other information: One proposer, Holland & Knight LLP, requested to withdraw its proposal and, therefore, was not considered by the Committee.


The alternate Committee member was utilized to replace one member of the Committee that could not participate.

Negotiations: The Committee recommends that the County enter into negotiations with the top three firms with the highest scores, Greenberg Traurig, P.A, Alcalde & Fay and Tew Cardenas LLP. The following individuals will participate in the negotiations:

Rita A. Silva, Sr. Procurement Contracting Officer, DPM
Jose Rasco, Executive Director, OIA

Copies of the score sheets (both pre-oral and post oral presentations) are attached for each Committee member as well as the composite score sheets.

Reviewed:



Miriam Singer
Director
Department of Procurement Management

12/16/2005
Date

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
EVALUATION OF PROPOSALS - Post Orals - 12/9/05

COMPOSITE

SELECTION CRITERIA	PROPOSERS		Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
	Maximum Points Per Member	Maximum Total Points (7 members)					
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP	30	210	189	167	184	152	171
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project	20	140	128	125	133	117	127
Proposer's approach and work plan to provide the type of services described in this RFQ	20	140	130	114	130	107	123
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies	30	210	192	165	179	150	179
TOTAL POINTS (Total of above rows)			639	571	626	526	600
Local Preference* (Highest ranked proposer's total points - 5% = Local Preference range)			607.05				

Signature:

Eita Silver

Chairperson

Charles Maguire

Reviewed By

Date 12/14/05
Date 12/14/05

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Post-Orals - 12/9/05)

Pete Hernandez

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	25	25	28	25	28
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	20	20	20	18	20
Proposer's approach and work plan to provide the type of services described in this RFQ		20	18	18	20	15	20
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	28	28	30	25	30
TOTAL POINTS (Total of above rows)			91	91	98	83	98

RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC Evaluation of Proposals (Post-Orals - 12/9/05)

Carlos Bonzon

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	30	16	30	20	20
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	16	15	16	12	15
Proposer's approach and work plan to provide the type of services described in this RFQ		20	20	12	20	12	15
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	30	20	30	20	25
TOTAL POINTS (Total of above rows)			96	63	96	64	75

RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC Evaluation of Proposals (Post-Orals - 12/9/05)

Jose Rasco

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	28	25	28	20	26
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	19	15	20	15	19
Proposer's approach and work plan to provide the type of services described in this RFQ		20	18	15	18	15	19
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	28	20	28	15	27
TOTAL POINTS (Total of above rows)			93	75	94	65	91

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Post-orals - 12/9/05)

Eric Olafson

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	30	20	29	21	28
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	20	18	20	16	19
Proposer's approach and work plan to provide the type of services described in this RFQ		20	20	15	20	15	20
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	29	21	30	22	29
TOTAL POINTS (Total of above rows)			99	74	99	74	96

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Post-orals - 12/9/05)

Roosevelt Bradley

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	24	30	22	20	25
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	14	20	19	19	18
Proposer's approach and work plan to provide the type of services described in this RFQ		20	15	20	19	15	15
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	27	30	20	24	24
TOTAL POINTS (Total of above rows)			80	100	80	78	82

RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC Evaluation of Proposals (Post-orals - 12/9/05)

Teresa Sands

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	27	28	27	24	24
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	19	19	20	17	18
Proposer's approach and work plan to provide the type of services described in this RFQ		20	19	18	18	17	18
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	25	26	26	24	24
TOTAL POINTS (Total of above rows)			90	91	91	82	84

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Post-Orals - 12/9/05)

Rana Brown

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	25	23	20	22	20
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	20	18	18	20	18
Proposer's approach and work plan to provide the type of services described in this RFQ		20	20	16	15	18	16
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	25	20	15	20	20
TOTAL POINTS (Total of above rows)			90	77	68	80	74

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
EVALUATION OF PROPOSALS - Pre-orals - 11/29/05

COMPOSITE (Sheet 1 of 2)

SELECTION CRITERIA	PROPOSERS		Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worldwide	Barbour Griffith & Roger, LLC	MWW GROUP
	Maximum Points Per Member	Maximum Total Points (7 members)							
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP	30	210	127	156	131	111	135	147	129
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project	20	140	95	107	90	87	101	102	96
Proposer's approach and work plan to provide the type of services described in this RFQ	20	140	84	103	82	75	91	95	88
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies	30	210	105	144	127	83	138	147	131
TOTAL POINTS (Total of above rows)			411	510	430	356	465	491	444

Signature: Rita Silver
 Chairperson: Walter Morgan
 Reviewed By: _____

Date: 12/14/05
12/14/05

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
EVALUATION OF PROPOSALS - Pre-Orals - 11/29/05

COMPOSITE (Sheet 2 of 2)

SELECTION CRITERIA	PROPOSERS		Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
	Maximum Points Per Member	Maximum Total Points (7 members)							
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP	30	210	181	92	146	164	178	154	173
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project	20	140	126	78	106	121	134	114	129
Proposer's approach and work plan to provide the type of services described in this RFQ	20	140	125	76	98	110	129	108	121
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies	30	210	179	73	139	156	176	139	177
TOTAL POINTS (Total of above rows)			611	319	489	551	617	515	600

Signature: _____

Date: _____

Chairperson _____

Reviewed By _____

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 1 of 2)

Pete Hernandez

SELECTION CRITERIA	PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worlwide	Barbour Griffith & Roger, LLC	MWV GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	15	20	20	15	20	15	15
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	10	15	10	10	10	10	10
Proposer's approach and work plan to provide the type of services described in this RFQ		20	10	15	10	10	10	10	10
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	15	20	25	15	20	20	20
TOTAL POINTS (Total of above rows)			50	70	65	50	60	55	55

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-orals - 11/29/05 - Sheet 2 of 2)

Pete Hernandez

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	26	22	22	25	28	25	28
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	18	15	15	18	20	18	20
Proposer's approach and work plan to provide the type of services described in this RFQ		20	18	15	15	18	20	15	20
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	28	15	22	28	30	25	28
TOTAL POINTS (Total of above rows)			90	67	74	89	98	83	96

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-orals - 11/29/05 - Sheet 1 of 2)

Carlos Bonzon

SELECTION CRITERIA	PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worldwide	Barbour Griffith & Roger, LLC	MWW GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	15	20	13	12	13	16	13
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	12	14	10	9	12	14	12
Proposer's approach and work plan to provide the type of services described in this RFQ		20	12	16	9	9	9	12	10
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	12	20	10	8	15	16	14
TOTAL POINTS (Total of above rows)			51	70	42	38	49	58	49

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-orals - 11/29/05 - Sheet 2 of 2)

Carlos Bonzon

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	25	0	16	16	25	18	18
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	16	0	12	12	16	12	15
Proposer's approach and work plan to provide the type of services described in this RFQ		20	16	0	12	10	16	12	12
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	20	0	12	12	20	12	18
TOTAL POINTS (Total of above rows)			77	0	52	50	77	54	63

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 1 of 2)

Jose Rasco

SELECTION CRITERIA	PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worldwide	Barbour Griffith & Roger, LLC	MWW GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	15	25	15	15	25	25	20
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	15	15	15	15	15	15	15
Proposer's approach and work plan to provide the type of services described in this RFQ		20	10	15	10	10	15	15	15
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	5	23	20	10	20	23	15
TOTAL POINTS (Total of above rows)			45	78	60	50	75	78	65

RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 2 of 2)

Jose Rasco

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	26	15	20	25	28	20	26
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	19	15	15	15	20	15	18
Proposer's approach and work plan to provide the type of services described in this RFQ		20	18	10	15	15	18	15	17
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	26	5	20	20	28	15	27
TOTAL POINTS (Total of above rows)			89	45	70	75	94	65	88

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-oral - 11/29/05 - Sheet 1 of 2)

Eric Olafson

SELECTION CRITERIA	PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worldwide	Barbour Griffith & Roger, LLC	MMW GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	20	20	15	16	17	20	18
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	16	12	14	14	15	16	15
Proposer's approach and work plan to provide the type of services described in this RFQ		20	12	10	11	10	10	10	10
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	23	21	13	12	19	22	20
TOTAL POINTS (Total of above rows)			71	63	53	52	61	68	63

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 2 of 2)

Eric Olafson

SELECTION CRITERIA	PROPOSERS		Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
	Maximum Points								
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP	30		30	10	21	20	29	21	28
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project	20		20	12	17	18	20	16	19
Proposer's approach and work plan to provide the type of services described in this RFQ	20		20	12	12	12	20	12	20
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies	30		29	15	21	21	30	22	29
TOTAL POINTS (Total of above rows)			99	49	71	71	99	71	96

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-orals - 11/29/05 - Sheet 1 of 2)

Roosevelt Bradley

SELECTION CRITERIA / PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worlwide	Barbour Griffith & Roger, LLC	MWV GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP	30	24	26	26	23	10	27	22
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project	20	16	19	15	18	11	15	17
Proposer's approach and work plan to provide the type of services described in this RFQ	20	15	15	16	16	10	17	16
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies	30	24	25	26	15	15	24	24
TOTAL POINTS (Total of above rows)		79	85	83	72	46	83	79

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 2 of 2)

Roosevelt Bradley

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	24	14	25	29	22	25	21
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	14	13	16	20	19	19	18
Proposer's approach and work plan to provide the type of services described in this RFQ		20	15	14	14	18	19	18	14
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	27	14	24	30	25	24	24
TOTAL POINTS (Total of above rows)			80	55	79	97	85	86	77

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RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-oralis - 11/29/05 - Sheet 1 of 2)

Teresa Sands

SELECTION CRITERIA	PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worldwide	Barbour Griffith & Roger, LLC	MWW GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	20	25	22	15	25	24	23
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	16	17	13	11	18	17	17
Proposer's approach and work plan to provide the type of services described in this RFQ		20	15	17	11	10	17	16	17
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	16	20	18	13	24	24	23
TOTAL POINTS (Total of above rows)			67	79	64	49	84	81	80

RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 2 of 2)

Teresa Sands

SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	25	13	24	26	26	23	25
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	19	13	19	18	19	16	19
Proposer's approach and work plan to provide the type of services described in this RFQ		20	18	15	18	17	18	16	18
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	24	14	25	25	25	23	26
TOTAL POINTS (Total of above rows)			86	55	86	86	88	78	88

RFQ NO. 74
Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 1 of 2)

Rana Brown

SELECTION CRITERIA	PROPOSERS	Maximum Points	Quinn Gillespie & Associates	Foley and Lardner LLP	Adorno & Yoss	Federalist Group, LLC	Dutko Worldwide	Barbour Griffith & Roger, LLC	MWW GROUP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	18	20	20	15	25	20	18
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	10	15	13	10	20	15	10
Proposer's approach and work plan to provide the type of services described in this RFQ		20	10	15	15	10	20	15	10
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	10	15	15	10	25	18	15
TOTAL POINTS (Total of above rows)			48	65	63	45	90	68	53

RFQ NO. 74

Governmental Representation and Consulting Services in Washington, DC
Evaluation of Proposals (Pre-Orals - 11/29/05 - Sheet 2 of 2)

Rana Brown

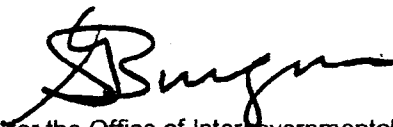
SELECTION CRITERIA	PROPOSERS	Maximum Points	Greenberg Traurig, P.A.	Marlowe & Company	Global USA, Inc.	Van Scoyoc Associates, Inc.	Alcalde & Fay	Akerman Senterfitt	Tew Cardenas LLP
Proposer's experience, qualifications, capabilities, and past performance in providing the type of services described in this RFP		30	25	18	18	23	20	22	27
Experience and qualifications of individuals, including subcontractors, that will be assigned to this project		20	20	10	12	20	20	18	20
Proposer's approach and work plan to provide the type of services described in this RFQ		20	20	10	12	20	18	20	20
Proposer's understanding of key County issues and ability to establish, maintain and enhance working relationships between County elected officials and federal and the executive and legislative branches of the federal government and relevant state agencies		30	25	10	15	20	18	18	25
TOTAL POINTS (Total of above rows)			90	48	57	83	76	78	92

Memorandum



Date: November 9, 2005

To: Those Listed Below

From: George M. Burgess
County Manager 

Subject: Selection Committee for the Office of Intergovernmental Affairs Request for Qualifications for Governmental Representation and Consulting Services in Washington, D.C. and Tallahassee, Florida - RFQ Nos. 74 and 75

In accordance with Administrative Order 3-34, I am hereby appointing those listed below as the Selection Committee for the Office of Intergovernmental Affairs Request for Qualifications for Governmental Representation and Consulting Services in Washington, D.C. and Tallahassee, Florida - RFQ Nos. 74 and 75:

Selection Committee

Rita Silva, DPM (Non-Voting Chairperson)
Pete Hernandez, CMO
Carlos Bonzon, CMO
Roosevelt Bradley, Transit
Jose I. "Joe" Rasco, OIA
Eric Olafson, OIA
Virginia Sanchez, Diageo
Teresa Sands, DBD
Rana Brown, Greater Miami Chamber of Commerce (Alternate)

The Selection Committee will meet to review written or printed material regarding the qualifications of each of the certified firms as it relates to the requirements defined in the advertised document. If required, the Selection Committee will select several candidate firms meeting the published criteria, to make oral presentations at a properly noticed public hearing to the full Selection Committee.

The Selection Committee shall be responsible for evaluating, rating and ranking the proposals by each Committee member, based on the criteria and procedure contained in the advertised document. The Evaluation/Selection Committee will first evaluate and rank responsive proposals on the Technical (Quality) criteria. If responsive proposers are invited to make oral presentations, the Committee may re-rate and re-rank the proposals based upon the written documents combined with the oral presentation. You may utilize staff of the issuing department and the using agency to conduct a preliminary review of the proposals for responsiveness to the technical requirements. All requests for specific determinations shall be made in writing to the County Attorney's Office.

You are directed to assist me in the selection process considering the factors delineated in the advertised document. These factors may include methodology and management approach, qualifications and experience of principals and staff, financial stability, proposer's past performance of similar scope and size, proposer's detailed plans to meet the objectives of each task, activity, etc., pursuant to any schedule, proposer's previous County experience, history and experience of the firm or individual(s), understanding of the project and the County's objectives, responsiveness to the established requirements, and Cost/Revenue (normally separate and sealed). When the document requires the proposer to provide cost/revenue in a separate sealed envelope, cost/revenue will be considered separately and after the other criteria have been evaluated.

* If you are unable to participate in the Selection process, contact this office through the Department of Business Development (DBD) by memorandum documenting the reason why you cannot participate. Only in cases of dire urgency may you be excused from participation.

The alternate committee member will serve only in the event of an approved substitution. No substitution of committee members shall be allowed after the first official meeting of the committee. The Department of Procurement Management's (DPM) RFP Unit may substitute the chairperson to ensure the appropriate level of staffing expertise as deemed necessary to accommodate the needs of this solicitation.

Following the oral presentation, or upon completion of the review process, the Committee shall prepare and submit a memorandum to include a narrative of the evaluation and justification of the top recommended firm(s) based upon the reasoning and mathematical formula, if utilized, and attach supporting documentation and a summary sheet which MUST include the following information:

Name of firm(s)
Quality Rating Score
Price
Adjusted Score (if applicable)
Committee's Overall Ranking

This report should be submitted to me through the DPM and the DBD for review and consideration for further recommendation to the Board of County Commissioners.

As a matter of administrative policy and to maintain a fair and impartial process, all individuals appointed to the Selection Committee (including the Chairperson) and staff are instructed to refrain from discussing the solicitation with prospective lobbyists and/or consultants. Committee members are reminded that in accordance with the Cone of Silence Ordinance 98-106, they are prohibited from having any communication with potential respondents and/or their representatives. Violation of this policy could lead to termination.

All questions must be directed to the staff contact person(s) designated by the issuing department.

c: Miriam Singer, Director, DPM
Jose I. "Joe" Rasco, Jr., Director, OIA
Marsha E. Jackman, Director, DBD

Selection Committee
Rita Silva, DPM (Non-Voting Chairperson)
Pete Hernandez, CMO
Carlos Bonzon, CMO
Roosevelt Bradley, MDTA
Joe I. "Jose" Rasco, OIA
Eric Olafson, OIA
Virginia Sanchez, Diageo
Teresa Sands, DBD
Rana Brown, Greater Miami Chamber of Commerce (Alternate)

**SELECTION COMMITTEE
OFFICE OF INTERGOVERNMENTAL AFFAIRS
REQUEST FOR QUALIFICATIONS
GOVERNMENTAL REPRESENTATION AND CONSULTING SERVICES
IN WASHINGTON, D.C. AND TALLAHASSEE, FLORIDA**

RFQ NOS. 74 AND 75

Committee Member/ Title	Department	Start Year With County	Ethnicity/ Gender	Education	Professional Licenses	Telephone #
Rita Silva Non-Voting Chairperson	DPM	--	--	--	--	(305) 375-1081
Pete Hernandez Deputy County Manager	CMO	1973	Hispanic Male	Bachelor of Science in Civil Engineering	P.E.	(305) 375-1253
Carlos Bonzon Assistant County Manager	CMO	1971	Hispanic Male	Ph.D. in Engineering	P.E.	(305) 375-5311
Roosevelt Bradley Director	MDTA	1985	Black Male	Bachelors in Politics and Political Affairs	N/A	(305) 375-2597
Jose I "Joe" Rasco Director	OIA	2005	Hispanic Male	Master in International Business, Bachelor in International Affairs	N/A	(305) 375-5600
Eric Olafson Federal Coordinator	OIA	2002	White Male	Law Degree	Florida Bar Member Colombia Bar Member Lobbyist in Washington	(305) 375-5600
Virginia Sanchez Vice President of Corporate Relations, Diageo	N/A	N/A	Hispanic Female	Juris Doctorate	N/A	(305) 269-4515
Teresa Sands, Director Professional Support Services Division	DBD	2001	Black Female	Law Degree Bachelors in International Affairs	Florida Bar Member	(305) 375-3143
Rana Brown Senior Vice President for Advocacy, Greater Miami Chamber of Commerce (Alternate)	N/A	N/A	White Female	Bachelor of Arts Bachelor of Arts in History	N/A	(305) 577-5489

Memorandum



Date: January 9, 2006

To: Honorable Chairman Joe A. Martinez
And Members, Board of County Commissioners

From: Hugo Benitez
Assistant County Attorney

Subject: Late Filed Proposal – Sandler, Travis & Rosenberg, P.A.

This opinion is issued to provide advice to this Board regarding the allegations made by the firm of Sandler, Travis & Rosenberg, P.A., ("STR") in its letter to the Department of Procurement Management ("DPM") dated December 7, 2005, attached as Exhibit 1. STR argues that its late-filed proposal should be accepted and evaluated. For the reasons set forth below, we conclude that although STR's proposal could have been considered despite the late filing, this Board may lawfully award the contract in accordance with the recommendations contained in the agenda.

FACTS

Our office relies on the facts set forth in the chronology attached as Exhibit 2, our review of the Request for Qualifications ("RFQ"), and our conversations with DPM.

On or about February 8, 2005, the County advertised an RFQ for Governmental Representation and Consulting Services in Washington, D.C. The purpose of the RFQ was to solicit qualifications from firms to represent the County before the federal government. RFQ 1.1. Section 1.2 of the RFQ provided March 11, 2005 at 2:00 p.m. (local time) as the deadline for receipt of proposals in the Clerk's Office. Section 1.12 stated:

Proposals will be opened promptly at the time and place specified.
Proposals received after the first proposal has been opened will not be opened and will not be considered. The responsibility for submitting a proposal to the Clerk of the Board on or before the stated time and date is solely and strictly the responsibility of the Proposer. Miami-Dade County is not responsible for delays caused by any mail, package or couriers service, including the U.S. mail, or caused by any other occurrence.

In accordance with these express instructions, fifteen proposals were opened at the time and place announced. At 2:08 p.m., STR's sealed envelope was received by the Clerk.

By letters dated March 25, and March 28, 2005, DPM advised STR that STR's proposal was received late and would not be considered. DPM further instructed STR to retrieve its late-filed

proposal. On March 31, 2005 STR wrote to DPM that it had "elected to retrieve [our] proposal package" and designated a representative for that function. Significantly, at that time STR did not indicate any disagreement with DPM's decision; no issue was then identified with DPM or the County Attorney's Office regarding the responsiveness of STR.

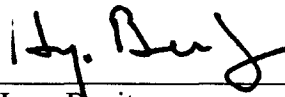
On December 7, 2005, STR wrote the letter which is attached as Exhibit 1. The Office of the County Attorney was consulted for its advice in connection with STR's December letter.

OPINION

Based on the facts set forth above, we conclude that the Board may lawfully award this contract to the recommended vendors notwithstanding STR's arguments.

STR argues that the County's consideration of its late-filed proposal would be lawful. We agree. The law supports the acceptance of a late-filed bid where the bidder has not obtained a material advantage over other bidders. Air Support Services, Inc. v. Dade County, 614 So.2d 583 (Fla. 3d DCA 1993); Hewitt Contracting Co., Inc. v. Melbourne Regional Airport Authority, 528 So. 2d 122 (Fla. 5th DCA 1988). For that reason, our Office has advised that late-filed proposals in certain instances may be accepted notwithstanding the express prohibitions of the soliciting document. See for example Opinion of October 13, 2005 ("Late Filed Proposal – South Miami-Dade Cultural Center).

In this case, however, it would be lawful to award a contract to the recommended bidders notwithstanding STR's argument. First, DPM's treatment of the issue is consistent with the procedures expressly announced in the specifications. Any other result advocated by STR is, at best, a permitted deviation from the rules advertised. Second, the timing of this complaint, on the eve of contract award and months after the events giving rise to the complaint, would disfavor its consideration. Third, the time involved in a protest would favor award notwithstanding STR's arguments. Finally, because STR retrieved its proposal, the original submission is no longer in our possession and cannot be compared to the other proposals. For these reasons, and given the immediate need for the services, the law would support your policy determination to award the contract to the recommended vendors at this stage of the process. See, generally, Liberty County v. Baxter's Asphalt & Concrete, Inc., 421 So.2d 505 (Fla. 1982) (governing body has wide discretion in evaluating and awarding bids).



Hugo Benitez

HB/es

SANDLER, TRAVIS & ROSENBERG, P.A.

DONNA L. BADE*
ROBERT J. BECERRA
PEGGY LOUIE CHAPLIN*
DAVID E. COHEN*
CHARLES L. CROWLEY*
LENNY FELDMAN
SHANNON E. FLURA*
JOELLE HERVIC
GERALD B. HORN*
EDWARD M. JOFFE
ERIK D. JOHANSEN*
MELISSA ANN MILLER
LARRY T. ORDET
JEREMY ROSS PAGE
MELISSA MANDELL PAUL
ARTHUR K. PURCELL*
BETH C. RING*
LEONARD L. ROSENBERG
ANDREW J. SAMET*
GILBERT LEE SANDLER
KRISTEN S. SMITH*
CINDY R. TABER*
THOMAS G. TRAVIS
THOMAS V. VAKERICS*
KENNETH WOLF*
NANCY J. WOLLIN

RONALD W. GERDES (1947-2005)

* NOT ADMITTED IN FLORIDA
* BOARD CERTIFIED INTERNATIONAL LAW
* RESIDENT IN ARGENTINA

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MIAMI, FL 33126-2022
(305) 267-9200
FAX (305) 267-5155
E-MAIL ADDRESS: info@strtrade.com
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SHAWN MCCAUSLAND
VIRGILO A. MOTA
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TRADE ADVISORS

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JOHN C. KINGERY*
TODD G. KOCUREK
CHRISTOPHER C. MCNATT, JR.*
LEE MERMELSTEIN*
MATTHEW K. NAKACHI*
L. JANA SIGARS
JESSICA A. WASSERMAN*
OF COUNSEL
SANDLER & TRAVIS
TRADE ADVISORY SERVICES
DETROIT • PORTLAND • OTTAWA
• PHOENIX
CONSULTING SERVICES

December 7, 2005

Rita A. Silva
Senior Procurement Contracting Officer
Department of Procurement Management
Miami-Dade County, Florida
111 N.W. 1st Street, Suite 1375
Miami, FL 33128-1974

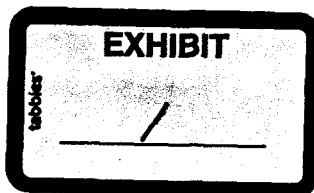
VIA FAX: 305/375-1083
U.S. Mail & Hand Delivery

Request for Qualification (RFQ) 74 Governmental Representation and Consulting Services in Washington, DC

Dear Ms. Silva:

The purpose of this letter is to request that our proposal in response to the above-referenced RFQ, filed on March 11, 2005, be considered by the County in its process to select Washington, DC consulting services.

It is our understanding that the Department of Procurement Management is now considering the Proposals filed in March of 2005 in response to Request for Qualification (RFQ) 74, as referenced above. Although our proposal was filed on March 11, 2005 (the announced due date), it is our understanding that it is not being considered due to the County's determination that it was received eight (8) minutes beyond the time deadline.



WASHINGTON, D.C. MIAMI NEW YORK BALTIMORE *SAN FRANCISCO CHICAGO BUENOS AIRES *LOS ANGELES
*OFFICES KNOWN AS SANDLER TRAVIS & ROSENBERG AND GLAD & FERGUSON, P.C.

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SANDLER, TRAVIS & ROSENBERG, P.A.

December 7, 2005

Page 2

We request that our proposal be considered on the following grounds:

- 1) Since the review process was delayed for approximately eight (8) months, it would be inappropriate to eliminate a proposal on the ground that it was filed eight (8) minutes late.
- 2) Alternatively, our proposal should be treated as timely filed because there is no definitive evidence that it was actually late. The determination that it was only eight minutes late clearly suggests that it must have been in the building, possibly in the correct room, eight minutes earlier;
- 3) The eight-month delay in considering the applications has required all applicants essentially to refile their applications, i.e., to update their proposals to reflect more currently their abilities to provide services. We should be permitted to similarly refile and/or update our proposal and be considered by the County at this time.

Consideration of our proposal is appropriate, lawful, equitable and in the best interests of the County in seeking the best possible representation in Washington, DC. The proposal was filed at a time which did not and would not have delayed the review process. We request that it be included in the review process at this time.

Sincerely,

~~Sandler, Travis & Rosenberg, P.A.~~

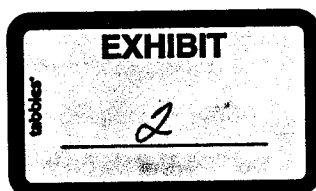
By: 

Gilbert Lee Sandler

cc: Clerk of the Board
George Burgess, County Manager
s:\ronda\miacontract\RFQ Challenge

RFQ No. 74
Federal Governmental Representation and Consulting Services
in Washington, DC

Date	Item
2/8/05	RFP released (advertise)
2/23/05	Pre-Proposal Conference held
3/11/05	Proposals due – 15 proposals received by 2:00 PM deadline were opened once Clerk's Office advised that 2:00 PM had passed (i.e., at 2:01 PM) – see attached list from Clerk of the Board
3/11/05	Sandler, Travis Rosenberg, P.A. proposal delivered to Clerk of the Board at 2:08 PM (DPM picked up the proposal from the Clerk thereafter)
3/25/05	Letter by DPM sent to Sandler regarding notification of late proposal and indicating proposal will not be considered
3/25/05	Letter by Sandler sent to DPM requesting clarification regarding the late proposal and stating that the proposal was marked at 2:08 PM
3/28/05	Letter by DPM sent to Sandler confirming the proposal was late and will not be considered
3/31/05	Evaluation/Selection Committee meeting to rate proposals
4/05	Evaluations placed on hold
10/12/05	IRCAC discussion regarding new committee due to 2 members having left the County, a new OIA Director being hired, and the Commissioners' desire to have members participate from outside the County
11/9/05	New Evaluation/Selection Committee formed by CM
11/29/05	Evaluation/Selection Committee meeting to rate proposals
12/7/05	Letter by Sandler sent to DPM requesting that proposal be considered
12/9/05	Evaluation/Selection Committee meeting for oral presentations
12/23/05	Recommendation to award forwarded to CM
12/27/05	CM's recommendation to award posted with Clerk and mailed to 15 proposers
1/18/06	Award anticipated to be presented to IRCAC
1/24/06	Award anticipated to be presented to BCC
2/1/06	Anticipated contract start date if reconsideration period waived and Mayoral Veto waived



BID NO: RFQ 74

TITLE: GOVERNMENTAL REPRESENTATION & CONSULTING SERVICES
IN WASHINGTON, DC

DATE: FRIDAY, MARCH 11, 2005 BY 2:00 PM

DEPT: PROCUREMENT

MNGR: RITA SILVA @ (305) 375-1081

NO	DATE RECEIVED	VENDOR'S NAME	STAFF'S INITIALS	COMMENTS
✓ 1.	3/10/05	Federalist Group, LLC	08	(1) B06
✓ 2.	3/10/05	Akerman Senterfitt / Alan Rubin	08	(1) B06
✓ 3.	3/11/05	Alcalde Ray	08	(1) B06
✓ 4.	11	Barbour Griffith & Rogers 3/9/05	08	(1) B6 =
✓ 5.	11	MWW Group	11	(1) B6
✓ 6.	4	Global USA	11	(1) B6
7.	11	Ed Gillespie/Bruce Andrews	11	(1) B6
✓ 8.	11	Dutko Group	11	(1) B6
✓ 9.	11	IAN-Scoyod Associates	11	(1) B6
✓ 10.	11	DAN Murphy 3/10/05	11	(1) B6
✓ 11.	4	Marlowe & Co.	12	(1) B6
✓ 12.	11	Foley Lardner LLP	11	(2) B6S
✓ 13.	11	Tew Cardenas LLP	11	(1) B6
✓ 14.	11	Holland & Knight	11	(1) B6
✓ 15.	11	Adkins & Yoss	11	(2) B6
✓ 16.	11	Greenberg Traurig	08	(1) B6
17.	11	Greenberg Traurig	08	(1) B6
18.				
19.				
20.		Rita Silva		
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